A

GUIDE

FOR

CONSTABLES,

Churchwardens, Overseers of the Poor, Surveyors of the High-ways, Treasurers of the County-Stock, Masters of the House of Correction, Bayliffs of Mannours, Toll-Takers in Fairs, &c.

A

TREATISE

Briefly shewing

The Extent and Latitude of the several Offices, with the Power of the Officers therein, both by common Law and Statute, according to the several Additions and Alterations of the Law, till the 22 year of his Majesties Reign.

The Fourth Edition enlarged.

Collected by *Geo. Meriton*, Gent.

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To all Constables, Tythingmen, Head-burroughs, Burfholders, &c.

SIRS,

HAving many times considered of the large extent of the Constables Office, and how little skill or knowledge many of you have, who are often called to take upon you the same Office, and also how few Authors there be who have writ on this Subject, *Mr.* Lambert, *Mr.* Wingate *and Mr.* Shephard *being the chief, whose Rules at this day are very unsafe for the Constables to square their Actions by; for Mr.* Lambert's *Book, being a Discourse principally of the Common Law Cases, is now much altered by Statute since, and that Book of the Office of a Constable Fathered upon Mr.* Wingate, *I am verily perswaded was none of his Work; for*

there are ſome unwarrantable Authorities and groſs Errors in it, which could not have ſlipped his ingenious Pen, if the work had been his; and for Mr. Shephard's *Book, it is ſtuft full of Acts and Ordinances of that Convention at* Weſtminſter, (*which in the late time of Uſurpation and Rebellion was owned for a Parliament*) *which Ordinances are now of no force; Therefore none of theſe being ſafe or warrantable Rules for the Conſtables to walk by, but blind Guides to lead them into the by-paths and crooked Meanders of many Errors; I thought thereupon that ſome little Treatiſe of this Subject might not onely prove very uſeful, but alſo very beneficial for the generality of People of this Kingdom; which conſideration hath occaſioned me to publiſh this ſmall unpoliſhed Epitome; and though I know the Book will fall under many hard Cenſures of thoſe who are far better able to undertake the Work, yet*

I hope, Dear Friends, my willingneſs to contribute anything to your Service, though but a Mite, doth claim your favourable Acceptance of my pains; Remembring the old ſaying ——eſt voluiſſe ſatis, *and there is nothing of ſo little regard, but hath ſomething of worth in it, and I deſpair not of ſome profit hence to you for whom it is intended, and for whoſe eaſe ſatisfaction and direction it was collected and publiſhed by him, kind Friends, whoſe ambition and deſire is, and ſhall be*

Read Hall, Feb. 25. 1668. Yours ready to ſerve, in what he may,

George Meriton.

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Licensed

Sept. 19. 1669. Roger L'strange.

A GUIDE FOR CONSTABLES, &c.

CHAP. I.

Of the Derivation of the word Constable, *how many sorts of Constables, the Antiquity of the Office, the several Appellations of this Officer in several places, who ought to be chosen to the said Office, and how and where to be sworn; with the form of the Constables Oath.*

THE word *Constable* is derived or compounded of two old *Saxon* words, Cuninge, or Kuninge, which signifieth *King*, and Stable, signifying *Stability*; shewing that these ancient Officers were repu-

ted to be as the ſtability or ſtay of the King and Kingdom : *Co. 4. Part. Inſt. fol. 123. Lamb. Office of Conſt. 5. & Dalton's J. P. Chap. 16. fol. 46.*

There are onely two ſorts of Conſtables, of whoſe Office this Treatiſe maketh particuliar mention, and that is High Conſtables of Hundreds, and Petty Conſtable in Towns and Pariſhes.

Now by the opinion of ſome men, theſe High Conſtable were firſt ordained to be choſen by the Statute of *Wincheſter*, and they were to make view of Armour twice every year, and to preſent before the Juſtices aſſigned, defaults of Armour, Watches, Highwayes, Hue and Cry ; and alſo ſuch as lodged Strangers for whom they would not anſwer. *Lamb. 5. Raſtall 379. C. D. 13 E. 1. C. 6. Dalton's J. P. ch. 16. fol. 46.*

And that the Petty Conſtables in Towns and Pariſhes, were after deviſed for the aid of the High Conſtables of Hundreds, about the beginning of the Reign of King *Edward* the Third. *Lamb. Duty Conſt. pag. 9.*

But others are of opinion, that the High

High Conſtables were Conſervators of the Peace within their ſeveral Hundreds and Limits, by the antient Common Law. *Crompt.* 6. & 222. 12 *H.* 7. *fol.* 18.

And that whereas the Sheriffs of Counties, at the firſt had the Government of their Countries committed to them, that afterwards, by reaſon of the multitude of people, it being then too great a Task for one man to undertake, thereupon Hundreds were deduced and derived out of the Counties, and in every one of them was ordained a Conſervator of the Peace, who was called the High Conſtable; and after this Burroughs or Towns were made, and within every one of them alſo was ordained a Conſervator of the Peace, who is called the Petty Conſtable: and theſe was long before the time of King *Edward* the Third, as appears by the derivation of words, and that they were in the time of the *Saxons*, ſo that it may ſeem as well the High Conſtables, as the Petty Conſtable and their Authorities, were by the Common Law; and that the old Statutes concerning them, are but a Recital of the

ancient Common Law, 12 *H.8. fol.*18. *a. Dalton's J. P. Chap.*16. *fol.*46.

Now there be other Officers of much like Authority to the Constables as the Bursholders in *Kent*, the Thirdburrough in *Warwick-shire*, and the Tythingman, Burrough-head, or Headburrough or chief Pledge in other places; but yet the Office of a Constable is distinct and (as it seemeth) is of greater Authority then these other: for it is held by some that these Bursholders, Thirdburroughs, Tythingmen, *&c.* being in a Town or Parish where a Constable is, that in such case they cannot meddle, because the Constables be (in comparison of them) Head Officers, and that the others are but as assistants to the Constables in all Services of his Office when the Constable is present, and in his absence, then these others are to attend the service; and that there are many other things which the Constables may do, and wherewith the Bursholders and the rest cannot meddle at all; and yet in Towns where there be no Constables, and that the Bursholders, Tythingmen *&c.* be there the only Officers for the Peace, as also

in

in such case where the Power or Authority of a Bursholder, Tythingman, *&c.* is declared to be equal with the power of the Constable, in all such cases and things, their Office and Authority be in a manner all one. See 1 *Jac.* C. 7. *Lamb. pag.* 4. 6, 9, 51, 52, 53. 54, 55. *Dalton's J. P. chap.* 1 *fol.* 3, 4.

Where any Statute doth appoint Offenders to be punished by the Constable, or other inferiour Officer, in such case the Tythingman, Headborough, *&c.* may do it for they are supposed to be inferiour Officers to the Constable. *Dalton's J. P. chap.* 1. *fol.* 4.

Note, that these Officers are to be attendant to Court Leets, Justices of the Peace and Coroners, for the executing of their Warrants, within their several Precincts.

And now as to the choyce of these Constables, you shall understand that the Law requireth that every Constable be *Idoneus homo*, that is, apt and fit for the execution of the said Office, and he is said in Law to be *Idoneus*, who is indued with these three thing, honesty, knowledg and ability. *Co.* 8. *Lib. Rep. fol.* 41. *Grisses* case there.

First, he ought to have Honesty to execute his Office truly, without malice, affection or partiality. Secondly, Knowledge to understand what he ought to do. And lastly, Ability, as well in substance or estate, as also in body, that so he may attend and execute his Office diligently, and not, through impotency of body or want, to neglect the place; for Constables chosen out of the meaner sort, they are either ignorant what to do, or dare not do what they should, or are not able to spare the time to execute the Office; they ought therefore to be of the ablest sort of men, and are not to be chosen either by House or other Custom, if they be not fit persons for the Office. *Co.* 8. *Lib. Rep fol.* 41.

And if any one shall be chosen Constable, which is not thus qualified and inabled, he may by Law be discharged of his said Office, and another fit man may be appointed in his place. *Co.* 8. *Lib. Rep. fol.* 42.

Clergy-men, Justices of the Peace, Lawyers, Physicians, Attorneys, Women whether Maids or Widows, Madmen, Infants, old, sick, decrepid persons,

ſons, nor poor people, are not to be choſen to the Office of Conſtable.

And note, that a man is to ſerve this Office in reſpect of his perſonal abode and place of Reſidency, and not in reſpect of his Land in another place, for if he have Lands in one place, and keep houſe in another place, he muſt ſerve where he dives, and not where his Lands lie.

A Cuſtom in a Pariſh or Town, that the Office of Conſtable ſhall go by the houſe, is not good; for if a woman have an houſe there, ſhe is eligible, which is againſt Law; but a cuſtom that every man, ſufficient in the place ſhall ſerve the Office himſelf, or find a ſufficient man to ſerve it, may be good. *Cro. 1. Par. Rep. fol.* 283.

A Leet chooſing unable or unfit Conſtables is cauſe of forfeiture of the Leet, and ſuch choice is void; and two Juſtices of Peace, upon complaint to them made, may remove ſuch a Conſtable, and chuſe and ſwear a new one. *Dalt. J. P. Chap.* 16. *fol.* 47. *Steels Rep. fol.* 21. *Mich.* 22 *Car.* 1. *B. R. Bolſtrod's* 1 *Part. Rep. fol.* 174.

The High Conſtables are moſt uſual-

ally choſen at the Quarter Seſſions of the Peace for that County, and are either to be ſworn there, or elſe by warrant from the Seſſions to be ſworn elſewhere; and if it happen that they be choſen out of the Seſſions, then ought they to be choſen by the greater number of the Juſtices of that Diviſion where they dwell. *Lamb.* 190. 13 *E.* 1. *Stat. Winth. Dalt. J. P. chap.* 16. *fol.* 46.

And in ſuch manner as they are to be choſen, in the ſame manner, and by the like Authority are they to be removed; for *eodem modo quo quid conſtituitur, diſſolvitur.*

By the Stat. of the 34 *H.* 8. Two Juſtices of the Peace, the one being of the *Quorum* may appoint the High Conſtables in *Wales.* 34 *H.* 8. *ch.* 26.

Now for the Swearing and chooſing of petty Conſtables, it properly belongs to the Court Leet, but in ancient time they were yearly appointed by the Sheriffs in their turn, and were there ſworn and received their Oath, and ſo they may be ſtill. *Bacons uſe of the Law, pag.* 56. *Dalt. J. P. ch.* 16. *fol.* 47. & *chap.* 121. *fol.* 366.

And

And now by the *Stat.* 14 *Car.* 2. It is provided that if any Conſtable of a Pariſh die, or remove, that any two Juſtices may make and ſwear a new one, to continue till the next Leet or Quarter Seſſions, and then the Steward of, or in the Leet, or Juſtices at the Seſſions are to ſwear another, or to approve of him that is choſen; and if any ſuch officer ſhall continue in his place above a year, the Juſtices at their Quarter Seſſions, may diſcharge him, and put another in his place, till the Lord of the Leet ſhall keep his Court and place in another. 14 *Car.* 2. *ch.* 12.

Conſtables lawfully choſen, if they ſhall refuſe to be ſworn, the Juſtices of Peace may bind them over to the Aſſiſes or Seſſions of the Peace. *Dalt. J. P. chap.* 16. *fol.* 47. *Vide Crawleys Caſe. Cro.* 1. *part. fol.* 409.

A Conſtable of an Hundred or Pariſh, may not make a Deputy to execute his Office, as ſome hold opinion, but a Deputy may do under him many parts of his Office in his Name, ſo ſtill as the Conſtable muſt anſwer for it. *Bolſtrods* 3 *part Rep. fol.* 77, 78.

If any Action be brought againſt a Juſtice of Peace, Mayor, or Bailiff of a Corporation, Headburrough, Port-Reeve, Conſtable, Tythingman, Collector of Subſidies or Fifteens, Church-wardens, Sworn-men, Overſeers of the Poor, or their Aſſiſtants, for any thing done by reaſon of their ſeveral Offices, they may plead the general iſſue, and give the ſpecial matter in Evidence. *7 Jac. cap. 5. 21 Jac. cap. 22. Wingate's Abr. St. Title Evidence.*

And all Actions, brought againſt ſuch Officers, muſt be laid in the County where the fact was done, and in caſe where the Verdict paſſes for the Defendant, or the Plaintiff is Non-ſuit or diſcontinues his Suit, theſe Officers ſhall be allowed double Coſts, to be recovered as other Defendants recover their Coſts. *7 Jac. C. 5. 21 Jac. C. 12. Wingate's Abr. Stat. Tit. Evidence.*

The Form of the Conſtables Oath is as followeth:

YOu ſhall ſwear well and faithfully to ſerve our Soveraign Lord the King, and the Lord of the Mannor in the Office

of

of a Conſtable; you ſhall ſee the King's Peace to be well and duly kept and preſerved to the utmoſt of your power; you ſhall Arreſt all ſuch perſons as in your preſence ſhall ride or go armed offenſively, or ſhall commit or make any Riot, Affray or other breach of the King's Peace: You ſhall do your beſt indeavour that the Statute of Wincheſter for the Watch in your Town be duly kept, and that Hue and Cry, and the Statutes for puniſhment of ſturdy Beggars, Rogues, Vagabonds, Night-walkers and other idle and wandering perſons within your Liberties be duly put in execution: You ſhall do your beſt indeavour upon complaint to you made to apprehend all Fellons, Barrators, Riotors and perſons making Affrays; and if any ſuch perſons ſhall make reſiſtance, with force, you ſhall levy Hue and cry, and ſhall purſue them till they be taken, you ſhall have a watchful eye to ſuch perſons as ſhall maintain or keep any common houſe or place where any unlawful Games or Plays are or ſhall be uſed, as alſo to ſuch perſons as ſhall frequent or uſe ſuch places, or ſhall exerciſe or uſe any unlawful Games or Plays there or elſewhere, contrary to the Statute: At your Aſſizes, Seſſions or Leet, you ſhall preſent all and every the

offens-

offence committed or done contrary to the Statutes made and provided for the restraint of inordinate haunting and tipling in Taverns, Inns and Alehouses, and for repressing of drunkenness & prophane swearing. You shall true presentment make of all bloodshedding affrays, outcryes, rescues, and other offences committed or done against the Publick Peace, within your Limits: You shall well and truly execute all Precepts and Warrants to you directed from the Justices of Peace, and others in Authority in this County: And you shall well and duly, according to your knowledg, power, & ability, do & execute all other things belonging to the Office of a Constable, so long as you shall continue in the said Office:

So help you God.

Or the Oath may be given to the Constable in short, thus;

YOu shall swear, that you shall well and truly execute the Office of a Constable (or Tything man for the Parish (or Tything) of C. for this next year (or half a year, as the case is) and until another be sworn in your Room, or you shall be legally discharged thereof:

So help you God.

CHAP.

CHAP. II.

The Constables Office about Affrays.

IF any man shall make an Affray or Assault upon another in the presence of the Constable, or if any man in his presence shall threaten to kill, beat or hurt another, or shall be in a fury ready to break the Peace; in every of these cases the Constable may commit the offenders to the Stocks, or to some other safe custody for the present (as the quality of the person requireth) until such time as he can carry them before some Justice of the Peace, or to the Gaol, until they shall find Sureties for the Peace. which Surety the Constable himself may also take by an Obligation to be sealed and delivered to the King's use: and so was the opinion of *Walmesley Owen*, and *Beamond*, in the Argument of *Skarretts* Case, *Tr.* 35 *El. co. Ban. Rot.* 1458. but my Lord *Anderson* said, That the Constable ought to carry the parties that he should see breaking the Peace, before a Justice to find Sureties for the Peace; and at this day

day this is the moſt uſual and ſafeſt way, *Vide* 3 *H* 4. 9. & 10. *Bacons uſe of the Law, fol.* 5. *Dalt. J. P. Chap.* 1. *fol.* 4. 5. & *Chap.* 118. *fol.* 340. *Kitchins Court-Leet &c. fol.* 69. *a.* 22 *E.* 4 *fol.* 35.

In caſe where the Conſtable had taken ſuch an Obligation to the uſe of the King, he was to ſend it into the Exchequer or Chancery, from whence proceſs ſhould be awarded to levy the debt, if the peace were broken, *Dalton's J. P. Chap.* 1. *fol.* 5. *Bacons Uſe of the Law* 5.

The Conſtable, in the King's Name, ought to command Affrayers, or ſuch as are about to make an affray, to avoid or ſurceaſe, and to depart on pain of Impriſonment, and if the Conſtable being preſent at an Affray, doth not his beſt endeavour to part them, it being preſented by the Enqueſt at the Seſſions of the Peace, ſuch Conſtable may be fined for it, *Dalt. J. P. Ch.* & *fol.* 33.

If any perſon be dangerouſly hurt, in an Affray, the Conſtable (or any other perſon) may arreſt the offender, and carry him to a Juſtice of Peace, who is either to Bayl him till the next Gaol Delivery, or to commit him to the

the Gaol, until it be known whether the party hurt will live or dy thereof, *Bro. faux. Impr.* 35. 44. 3 *H.* 7. 1, 10, *H.* 7. 20. *Lamb.* 136. 38 *E.* 3. 8. *&* 11. *Dalt. J. P. chap.* 8. *fol.* 33. *Kitchin fol.* 68.

If the Affrayers will not depart, but ſhall draw Weapons, or give any blow, the Conſtable may command aſſiſtance of others for the pacifying of the Affray, and may juſtifie the beating or wounding of them, if they make reſiſtance; and, if either the Conſtable, or any in his Aſſiſtance be ſlain, it is murder in the Affrayers. *Lamb.* 135. 1 *H.* 7. 7. 3 *H.* 7. 10. *Co.* 4 *lib. Rep. fol.* 4. *& Co.* 9. *lib. Rep. fol.* 66.

The Conſtables (if the Affray be great or dangerous) may in the King's Name make Proclamation that the Affrayers ſhall keep the King's Peace, and depart, *&c.* And if the Affray be in an houſe, and the Doors ſhut, the Conſtable may break into the Houſe to ſee the Peace kept, though none of the parties have taken any hurt; and if the Affrayers fly into another man's houſe, the Conſtable, upon freſh purſuit, may break into ſuch houſe, and apprehend the Affrayers,

frayers. *Dal. 7. P. chap. 8. fol. 4. 33. Lamb. 135. 7 E. 3. 19.*

And where the Affrayers fly into another County, the Conſtable ſeeing this, may freſhly purſue, or cauſe them to be purſued, and to be taken there, but then in ſuch caſe the Conſtable can meddle no further (but as every private man may do) to carry them before ſome Juſtice of Peace of the County where they are taken, to cauſe them to find Sureties for the Peace. *Cromp. 146. b. & 172. b. Dalt. chap. 8. fol. 34. & ch. 118. fol. 340. Plo. 37.*

But in caſe where the Affrayers fly into a Franchize only within the ſame County where the affray was, there the Conſtable, ſeeing this, may freſhly follow and take them out of ſuch Franchize. *Crom. 146. Dalt. J. P. chap. 8. fol. 34.*

Note that after the Affray be over, the Conſtable without a Warrant cannot Arreſt the Affrayers, except ſome perſon be in peril of death by ſome hurt there received; but before the Affray begun, and during the time thereof, he may Arreſt them without Warrant. *38 H. 8. Bro. faux. Impr. 6.*

Dalt.

Dalt. J. P. ch. 8. fol. 34. Kitch. 69. b.

Where the Affray is made out of the preſence or ſight of the Conſtable, and one cometh to the Conſtable and telleth him of it, and wiſheth him to go and ſee the Peace kept, and the Conſtable will not, in ſuch caſe it is held by ſome, that the Conſtable ſhall not be fined by the Juſtices at their Seſſions upon preſentment thereof by the grand Enqueſt; but *quære* hereof, for it is againſt his Oath if he do not ſee the Peace kept. *Cromp. 146. Dalt. J. P. chap. 8. fol. 33.*

Note, that it is properly no Affray, unleſs there be ſome Weapons drawn, or ſome ſtroke given or offerred to be given, or other attempt to ſuch purpoſe, for if men ſhall contend onely in hot words, this is no Affray, neither may the Conſtable for words onely lay hands upon them, unleſs they ſhall threaten to kill, beat, or hurt one another, and then may the Conſtable arreſt ſuch perſons, and carry them before a Juſtice of Peace, to find Sureties for the keeping of the Peace; and yet ſuch threatning, as aforeſaid, is no Affray. *Bro. fauxe. Impr. 6. Cromp. 135.*

Dalt.

Dalt. J. P. Ch. 8. fol. 34, & 158.

If an affray or an aſſault be made upon the Conſtable himſelf, he may not only defend himſelf, but alſo put the parties offending in the Stocks, till ſuch time as he can carry them to a Juſtice of Peace, or to the Gaol; and if he be not able to arreſt them himſelf, he may then call others to his aſſiſtance, who may juſtifie to arreſt the parties. *5 H. 7. 6. Bro. fx. Imp. 41. 3 H. 4 fo. 10. Dalt. J. P. Ch. & fol. 35. Kitchin pag. 69 a.*

CHAP. III.

The Conſtables Office about Alehouſes, &c.

IF the Conſtables and Churchwardens upon a Warrant directed to them from one or more Juſtices of the Peace, againſt an Inkeeper, Alehouſe-keeper or Victualler, for ſuffering Tipling in his houſe, or for his meaſure of Ale and Beer, do not diſtrein and levy the forfeitures according to the Statute; that is 20 *s.* for telling leſs than a full Ale quart of the beſt Ale or Beer,

or

or two quarts of the Small for one peny, and 10 *s*, for Tipling in his houſe; or if there be no diſtreſs to be found, if the Officers neglect by the ſpace of twenty dayes to certifie the ſame default of diſtreſs to the Juſtices, in any of theſe Caſes the Officers forfeit forty ſhillings to the uſe of the Poor, to be levied by diſtreſs, on their Goods by Warrant made to any indifferent perſon, from any one or more Juſtices of the Peace under their Hand and Seal, and for want of Diſtreſs, the Delinquents by any ſuch Juſtice of the Peace may be commited to the Gaol, there to remain until they have paid the ſame forfeitures: but note, the diſtreſſes in all theſe caſes muſt be kept ſix dayes and if the parties do not within that time pay the forfeitures, then the diſtreſs is to be appraiſed and ſold, and the *overplus* retuned to the owners. *Wingate's Abr. Stat. Title Alehouſes,&c.* 1. *Jac. Ch.*9. 1. *Car.* 1. *Ch.*4. *Dalton's J.P. Chap.*7. *fol.* 28. *Young's Vade Mecum, Sect.*1,2,3.

Or if the Conſtable, or other inferior Officer of the Pariſh, ſhall neglect to execute the Juſtices Warrant againſt

gainſt Townſmen or others, for Tipling in any Inn, Alehouſe, or Victualing houſe, or againſt men for being drunk, that is 3 *s.* 4 *d.* for Tipling, and 5 *s.* for being drunk, to be levied by diſtreſs on the offenders Goods, and ſale thereof, after ſix dayes default of payment, rendring the overplus to the owner, and for want of diſtreſs, and not being able to pay, the Tipler is to be ſet in the Stocks for the ſpace of four hours, and the Drunkard ſix houres; and if in any of theſe caſes the Conſtable neglect to do his duty, he forfeits ten ſhillings to the uſe of the Poor, to be levyed upon his Goods by diſtreſs and ſale, as aforeſaid; theſe offences are to be inquired of within ſix months after they are commited: And all Conſtables, Churchwardens, Headburroughs, Tythingmen, Alecuners, and Sidemen, may be charged on their Oath to preſent the ſaid Offences. 4 *Jac. chap.* 5. 21 *Jac. ch.* 7. *Young's Vade mecum, Sect.* 45. *Dalt. J. P. chap.* 7. *fol.* 28 *Wingates Abr. Stat. Title, Alehouſes, &c.*

If any keep an Alehouſe without Licence, he forfeits Twenty ſhilling

to

to the use of Poor, which the Constable and Churchwardens (upon Warrant from the Justice before whom the offence is proved) shall levy by distress upon the offenders Goods, and for default of payment within three days after the said distress taken, then the same is to be sold for to satisfie the penalty, rendring the overplus to the owner; and in case the Delinquent hath not wherewithal to satisfie, the said Justice may commit him to the Constable to be openly whipped, and if the Constable neglect to execute the Warrant, or do refuse, or do not execute upon the said Offender the punishment of whipping, then the Justice may commit the Constable to the Goal without Bail, there to remain until the said Offender shall be by him punished, as aforesaid, or until the Constable shall pay 40 *s.* to the use of the Poor of the Parish. 3. *cap. Wingate's Abr. Stat. Tit. Ale-house*, &c. *Dalton's J. P. ch.7.fol.*31,32.

If a common Inkeeper or Alehouse-keeper will not lodge a Traveller, he proferring to pay ready money for his Victuals, then in such case the Constable

ble may cauſe ſuch Inkeeper, Alehouſe-keeper, *&c.* to be indicted at the Seſſions or Aſſizes, where he may be fined and impriſoned, or the party grieved may have his Action of the Caſe againſt the Inkeeper or Alehouſekeeper; but note, they are not bound to lodge or find Victuals without ready money firſt paid, if it be required. *Co. 9. Lib. Rep. fol. 87. b. 10 H. 7, 8. 4 H. 7. 22. 5 E. 4. 2. Dalton's J. P. Ch. 7. fol. 28.*

CHAP. IV.

The Conſtables Office about Arms, &c.

IF any perſon ſhall ride or go armed offenſively before the Kings Juſtices, or before any other the King's Officers or Miniſters during their Office, or in Faires or Markets or elſewhere, by Night or by Day, in Affray of the King's people and breach of the Peace, or, ware or carry any Guns, Daggs, or Piſtols charged; in ſuch Caſe, the Conſtable upon the ſight hereof may ſeize and take away their Armour and other Weapons, and cauſe them to be ap-

apprized and answered to the King as forfeited, and carry them before a Justice to find Sureties for the Peace. 2 *E.* 3. *Ch.* 3. 7 *R.* 2. 13. 20 *R.* 2. *Ch.* 1. 14 *E.* 3. *fol.* 33. *Co.* 3. *Part. Inst. fol.* 162. *Dalt. J. P. ch.* 9. *fol.* 35, *&* 159.

But note the King's Servants in his Presence, Sheriffs and their Officers, and other the King's Ministers, and such as be in their Companies assisting them in the execution of their Office, and all others in pursuing Hue and Cry, where any Felony or other offences against the Peace be done, may lawfully bear Armor or Weapons. 2 *E.* 3. *Chap.* 3. *Co.* 5. *Lib. Rep. fol.* 72. *in St. Johns Case*, 3 *H.* 7. *fol.* 1. *Dalt. J. P. Ch.* 9. *fol.* 36.

All High Constables, Petty Constables, and other Officers within their several Parishes, are to be aiding and assisting to such persons as shall have warrant from the Lord Lieutenants, or any two of their Deputies under their Hands and Seals, to search for and seize all Arms in the custody and possession of any person or persons whom the said Lieutenants or their Deputies shall judge to be dangerous to the Peace

Peace of the Kingdom, and to secure the same, and give account thereof to the said Officers; but such search is to be made in the day time only between Sun-rise and Sun-set, and not otherwise, unless it be in Cities and their Suburbs, Towns Corporate, and Market Towns, or houses within the Bills of Mortality, in which places search may be in the night, if the Warrant so direct; no dwelling house of any Peer of the Realm is to be searched, unless the Warrant be from the King's Majesty under his Sign-Manual, or in the presence of the Lieutenant, or one of the Deputy Lieutenants of the said County or Riding, and in all places and houses aforesaid, where search is made, in case of Resistance, to enter with force; and such Arms so seized, where the Lieutenants, or their Deputies, or any two of them think, may be restored to the owners again. *14 Car. 2. ch. 3.*

CHAP.

CHAP. V.

The Conſtables Office about Forein Bone-Laces, Cut-work, Imbroidery, &c.

THe Conſtables, upon Warrant to them directed from the Juſtices of Peace, or chief Officers of the Cities, Towns Corporate, &c. are to ſearch within their reſpective Counties, Cities, Towns; &c. in the Shops being open Ware-houſes, and dwelling houſe of ſuch perſon or perſons, who ſhall be ſuſpected to have any Forein Bone-Laces, Cut-works, Imbroideries, Fringes, Bandſtrings, Buttons, or Needle-works made of Thred, Silk, or any or either of them, made in the parts beyond the Seas, and where they find any ſuch, to ſeize the ſame. 14 *Car.* 2. *chap.* 13.

CHAP. VI.

The Conſtables Office about Iriſh Cattel.

IF any great Cattel, Sheep, or Swine or any Beef; Pork, or Bacon (except ſuch as is for the neceſſary proviſion of the reſpective Ships or Veſſels in which the ſame ſhall be brought, not expoſing the ſame or any part thereof to Sale) ſhall by any wiſe whatſoever be imported or brought from *Ireland*, or any other part beyond the Seas into the Kingdom of *England*, Dominion of *Wales*, or Town of *Barwick* upon *Tweed*; in ſuch caſe the Conſtable, Tythingman, Headborough, Churchwardens or Overſeers of the Poor, or any of them within their reſpective Liberties, Pariſhes or places, may take and ſeize the ſame, and keep the ſame during the ſpace of eight and forty hours, in ſome publick or convenient place where ſuch ſeizure ſhall be made, within which time, if the owner or owners, or any for him or them ſhall make it appear unto ſome Juſtice of Peace of the ſame County where the ſame

ſame ſhall be ſo ſeized, by the Oath of two credible witneſſes that the ſame were not imported from *Ireland*, or from any other place beyond the Seas, (except the Iſle of *Man*) then the ſame, upon the Warrant of ſuch Juſtice of Peace, are to be delivered to the owner or owners, without delay. 18 *Car.* 2. *cap.* 2.

But in default of ſuch proof and Warrant, then the ſame to be forfeited and one half thereof to be diſpoſed to the uſe of the Poor of the Pariſh where the ſame ſhall be ſo found and ſeized, and the other half thereof to his or their own uſe that ſhall ſo ſeize the ſame. 13 *Car.* 2. *ch.* 2.

Such Cattel as are imported from the *Iſle of man* (before excepted) into *England*, &c. are not to exceed the number of ſix hundred in one year, and they are to be of no other breed then of the breed of the *Iſle of Man*, and all to be landed at the Port of *Cheſter*, or ſome of the members there. of, and not elſewhere, and this Act continues for ſeven years, and from thence to the end of the firſt Seſſion of the next Parliament. 18 *Car.* 2 *chap.* 2.

But theſe former Remedies not proving ſo effectual for the prevention of the Tranſporting of the Cattel aforeſaid, it is further provided, That whenſoever, and as often as it ſhall happen, either through any fraudulent Agreement, or unfaithful connivence of any Conſtable, Headborough, Tythingman, Churchwarden, or Overſeer of the Poor, or that it ſhall happen any otherwiſe howſoever, that any great Cattel, Sheep, Swine, Beef, Pork or Bacon, after the firſt Seizure of them or any of them, by virtue of the aforeſaid Act, ſhall be driven, brought, carried into, or found in any other Pariſh or place, than where the ſame ſhall be firſt ſeized, as aforeſaid; That then, and ſo often, and from time to time, it ſhall and may be lawful to and for the Conſtable, Tythingman, Headbourough, Churchwarden, or Overſeer of the Poor of every, or any ſuch other Pariſh or place, where ſuch great Cattel, Sheep, Swine, Beef, Pork, or Bacon ſhall be brought, driven, or carried in, to, or found, as aforeſaid, to ſeize, take and diſpoſe the ſame, and every or any of them, as forfeited, The one Moiety thereof

thereof to the Uſe of the Poor of ſuch other pariſh or place where ſuch Seizure ſhall be made, the other to the Uſe of ſuch Officer or officers who ſhall ſeize the ſame, as aforeſaid; Any other or former ſeizure or ſeizures in any other Pariſh or Pariſhes, place or places, notwithſtanding. *Anno.* 20 *Car.* 2. *Maij* 1668.

CHAP. VII.

The Conſtables Office about Chimney Money.

THE High Conſtables and petty Conſtables Duties about Chimney money by the 14. *Car.* 2. *ch.* 10. and the 15 *Car.* 2 *ch.* 13. is now much altered, and particular Officers appointed for that purpoſe. 16 *Car.* 2. *ch.* 3.

All Juſtices of the Peace, chief Magiſtrates, Treaſurers, and under-Treaſurers, Conſtables, and other his Majeſties Officers are within their ſeveral Limits and Juriſdictions to be aiding and aſſiſting to his Majeſties Officers appointed for the collecting of the

duty of Hearth-mony. 16. *Car.* 2. *chap.* 3.

The Officers appointed by his Majesty for the Chimney-money, once every year, being acompanied with the Constable, or Tythingman, Treasurer, or Under-Treasurer, or other publick Officer of the place, and in all Parishes and places where there are no Constables, Tything-men, or other publick Officers, as aforesaid, there, without any such Assistance, may enter in the day time into any dwelling or other House, Edifice, Lodgings and Chambers in any of the Inns of Court, or Chancery, Colledges, and other Societies, to search and Examine whether there be any more Fire-hearths and Stoves in the same, then were formerly returned or certified, and what are increased and decreased since the last Certificate, and if they find any variance in the number returned, both the Officer and Officers appointed by his Majesty, and the Constable or Tythingman, or other Officer aforesaid, are to certifie the same under his and their hands to the Clerk of the Peace, *&c.* 16. *Car.* 2. *ch.* 3.

If the party after Demand made by his Majeſties Officers, or their Deputies at the houſe, chamber, or place where the duty ſhall ariſe or grow due, make default or refuſe to pay by the ſpace of one hour after ſuch demand, then the Officer or his Deputy may at any time with the aſſiſtance of the Conſtable, Tythingman, or other Officer, as aforeſaid, in the day time levy the ſaid duty and all the Arrearages thereof, by diſtreſs and ſale of the Goods of the party or parties ſo refuſing or making default, rendring the overplus to the owners, and over and above the duty and Arrearages, and neceſſary charges of taking the Diſtreſs; which charges are not to exceed one Moiety of the Duty and Arrearages. 16 *Car.* 2. *chap.* 3.

Note that no Arrearages of Hearth mony are to be diſtreyned for after the ſpace of two years next after ſuch duty becomes due: and if any violence oppoſition, or injury be done by any perſon or perſons to any of his Majeſties Officers or their Deputies in the due execution of their Office, and the ſame proved by Oath before any one Ju-

stice of Peace, or chief Magistrate, *&c.* such Justice or chief Magistrate, *&c.* if they think fit, may send the Offender to the common Gaol for any time, not exceeding one month, 16 *Car.* 2. *ch.* 3.

The Constables are to have two pence in the pound paid them by the Collector to whom they pay the Chimney money by them collected within their Constableries, and are to pay nothing to the Collectors for their Acquittances. 16 *Car.* 2. *Chap.* 3.

CHAP. VIII.

The Constables Office about Conventicles.

IF any Constable, Headborough, or Tythingman, neglect to execute the Warrants to them directed for Sequestring, Distraining, and Selling the Estate or Goods of any Seditious Conventicular to be Transported: or, neglect to Distrain and sell the Goods and Chattels of such Offender for the levying of such sums of money as shall be imposed on them for the first and second

ſecond offence; in ſuch Caſes the Officer for his neglect ſhall forfeit five pounds, the one moiety to the King, and the other to him that ſues for the ſame in any of the Kings Courts of Records. *16 Car. 2. ch. 4.*

Note, if any perſon be any time ſued for putting in execution any of the powers in the Act againſt Conventicles, ſuch perſons ſhall and may plead the general iſſue, and give the ſpecial matter in Evidence; and if the Plaintiff be *Not*-ſuit, or a verdict paſs for the Defendant, or if the Plaintiff diſcontinue his Action, or if upon Demurrer, Judgement be given for the Defendant, every ſuch Defendant ſhall have his or their treble coſts. *16. Car. 2. chap. 4.*

By the *Stat. 22 Car. 2. cap. 1.* made againſt ſeditious Conventicles; Every Conſtable, Headborough, Tythingman, Churchwarden, and Overſeers of the Poor, are authoriſed and required to levy the fines aſſeſſed by the Juſtice of Peace, upon thoſe who ſhall be preſent at unlawful Conventicles, upon their Goods and Chattels, having firſt received a Warrant under the

Hands and Seals of one or more Juſtices, or chief Magiſtrate, and forthwith deliver the money ſo levied to the ſame Juſtice of Peace, or chief Magiſtrate. And by Warrant from one or more Juſtice or Juſtices, or chief Magiſtrate, and reſpective Conſtables, Headboroughs and Tythingmen (Overſeers, not named) may with what ayd force and aſſiſtance they think fit, after refuſal or denyal to enter, break open and enter into any houſe or other place, where they ſhall be informed any Conventicle is held, as well within Liberties as without; and take into their Cuſtody the perſons there unlawfully aſſembled, to be proceeded againſt according to this Act.

No Peers houſe is to be ſearched, unleſs in preſence of a Lord, Lievtenant, or two Juſtices of Peace, whereof one to be of the *Quorum*.

If any Conſtable, Headborough, Tythingman, Churchwarden, or Overſeer of the Poor, ſhall know or be credibly informed of any Conventicle within his Precinct, and ſhall not thereof inform ſome Juſtice of the Peace, or chief Magiſtrate, and endeavour

vour the conviction of the parties, but neglects his duty, he ferfeits five pound to be levyed on his Gooods; And any perſon ſued for acting by this Law, may plead the general Iſſue, and give the ſpecial matter in Evidence, and ſhall recover treble coſts.

CHAP. IX.

The Conſtables Office about Clothiers.

THe Conſtables and other Officers, upon Requeſt to them made, are to be aiding and aſſiſting to the Wardens and Aſſiſtants, for regulating the Trade of Worſteds, and other Stuffs, called *Norwich* Stuffs, made within the City of *Norwich* and County of *Norfolk*. 14 *Car.* 2. *ch.* 5.

The Conſtables alſo within the Weſt-Riding of the County of *York*, are upon Warrant from the Juſtices of Peace, Maſters and Wardens of the Corporation of Clothiers within the ſaid Riding, or any Thirteen of them, to levy ſuch Fines, Forfeitures and penalties as ſhall grow due from any Clothier,

Clothier, by virtue of the Act of the 14 *Car.* 2. by distress and sale of the offenders Goods, rendring the overplus to the owner upon demand. 14 *Car.* 2. *ch.* 31.

The makers of Cloth must pay to their Carders, Spinners, and other Laboures their wages in ready money, and not in Wares, and shall deliver them Wooll according to due weight, on pain to forfeit sixpence for every default; and the Carders, Spinners, Weavers, Fullers, Dyers, Shear-men, and other Labourers, are to do their work faithfully, in pain to forfeit double damages to the party grieved. 4 *E.* 4 *ch. Fitz. J P* 203. *& Wingate's Abr. Stat. Tit. D perie.*

And every Justice of Peace, High Constable, or Steward of Leet, out of a Corporation, and in a Corporation every head Officer where no Master is, and every Master shall hear and determine the complaints of every such Clothier or Draper, as well for non-payment of the Labourers wages, as the damages aforesaid, by due examination of the parties, for which said damages, they have power to commit the offen-

offenders to the Gaol, until the party grieved shall be satisfied. 4 *E.* 4. *ch.* 1. *Wingates Abr. Stat. Tit. Draperie.*

The High Constables also, or Justices of the Peace, have power to enter into any House, Lands or other place, to search for any Tenters, Ropes, Rings, Headwrinches, or other Engines, for stretching of Cloth, and if they find any to deface them; and if the owners shall afterwards use them again, then these Officers may take and sell them, and give the money to the poor. 39 *El. ch.* 20. *Wingate's Abr. Stat. Tit. Draperie.*

CHAP. X.

The Constables Office about the Customs.

WHere a Warrant comes from my Lord Treasurer, or any of the Barons of the Exchequer, or chief Magistrate of a Port, to any person for the search of uncustomed Goods, such person, with the assistance of a Sheriff, Justice of Peace, or Constable, who are to be aiding and assisting upon request

queſt may enter into any Houſe in the day time, where ſuch goods are ſuſpected to be concealed, and in caſe of Reſiſtance, may break open ſuch Houſes, and ſeize and ſecure the ſame Goods ſo concealed in any Houſe. 12 *Car.* 2. *chap.* 19.

No Houſe is to be entred by vertue of the Act aforeſaid, unleſs it be within the ſpace of one month after the offence ſuppoſed to be committed; and if the Information, whereupon any houſe ſhall come to be ſearched, do prove to be falſe, then in ſuch caſe the party injured ſhall recover his full damages and coſts againſt the Informer, by Action of Treſpaſs to be brought againſt ſuch informer. 12 *Car.* 2. *ch.* 19.

And by the 14 *Car.* 2. ſuch perſon or perſons as are authorized by Writ of Aſſiſtance, under the Seal of his Majeſties Court of Exchecquer, are to take a Conſtable, Headborough, or other publick Officer inhabiting near the place, and in the day time are to enter and go into any Houſe, Shop, Cellar, Warehouſe, Room, or other place and in caſe of Reſiſtance break open the Doors, Cheſts, Trunks, and other

Package

Package there to ſeize, and from thence to bring any kind of Goods or Merchandize whatſoever, prohibited and uncuſtomed, and to put and ſecure the ſame in his Majeſties Store-houſe, in the Port next to ſuch place where the ſeizure ſhall be made. *14 Car. 2. ch.* 11.

All Officers belonging to the Admiralty, Captains, and Commanders of Ships, Forts, Caſtles and Blockhouſes, and all Juſtices of Peace, Maiors, Sheriffs, Conſtables and Headboroughs, and other the King's Majeſties Officers and Subjects whatſoever, whom it may concern, are to be aiding and aſſiſting to all and every perſon and perſons which are or ſhall be appointed by his Majeſty to manage his Cuſtomes: and if the Officers of the Cuſtoms, or any acting in aid of them ſhall be ſued, indicted, proſecuted, or moleſted, ſuch perſons, their Heirs, Executors, and Adminiſtrators, may plead the General Iſſue, and give the ſeveral Acts relating to the Cuſtoms, or any of them in Evidence, in any of his Majeſties Courts of Juſtice. *14 Car. 2. ch.* 11.

CHAP.

CHAP. XI.

The Constables Office about Setting-dogs, &c.

EVery Constable or Headborough, (upon a Warrant under the hands of two or more Justices of the Peace) hath power to search the houses of persons suspected to have any Setting Dogs, for any manner of Nets, for taking of Feasants or Patridges, and the Dogs and Nets there found, to take, carry away, detain, kill, destroy, and cut in pieces. *Dalt. J. P. ch.* 37. *fol.* 90. 7. *Jac. ch.* 11.

But note, that they cannot search the houses of such as have Free Warren, or are Lords of any Mannor, or have Freehold of Forty pounds by year, or more, of some Estate of Inheritance, or Eighty pounds by the year, for Term of Life, or be worth in Goods Four hundred pounds, for these may keep Nets or Dogs to take Feasants or Partridges in their own grounds or Precincts, 7 *Jac. ch.* 11. *Dalt. J. P. ch.* 37. *fol.* 90.

CHAP.

CHAP. XII.

The Conſtables Office about Eſcapes and Arreſts.

IF a Conſtable, or any other, which hath a Priſoner under Arreſt for Felony, or Suſpicion thereof, voluntarily letteth or ſuffereth the Priſoner to go where he will at liberty, (though this be breaking of priſon) yet it is Felony in the Gaoler, Conſtable, or him that letteth ſuch Priſoner eſcape; but it is no Felony in the Priſoner; but if ſuch a Priſoner ſhall eſcape by the negligence of his Keeper, and againſt his will and knowledg, then it is Felony in the Priſoner, becauſe a breach of Priſon, and the Gaoler, Conſtable, *&c.* may be fined by the Judges or Juſtices for ſuch eſcape. *Bro. Coron.* 112. 224. 316. 454. *& Bro. Eſcape* 31. *Stamford fol.* 32. 44. *Aſſ. Pl.* 18. *Dyer, fol.* 99. *Dalton's, ſ. P. ch.* 106. *fol.* 272.

If the Conſtable, or other officer, ſhall voluntarily ſuffer a Thief, being in his cuſtody, to go into the water, and drown himſelf, this Eſcape is Felony

lony in the Conſtable, and the drowning makes the Thief *Felo de ſe*; but if the Thief ſhall ſuddenly (without the aſſent of the Conſtable) kill, hang, or drown himſelf, this is then but a negligent Eſcape in the Conſtable, and Fineable, as aforeſaid. *Dalton. J. P. chap.* 106. *fol.* 272.

The voluntary letting of a Felon to eſcape before he be arreſted for the felony, is no felony in the party that ſuffereth him to eſcape; but if the Conſtable ſuffer one to eſcape when he knows he hath committed a Felony; in ſuch caſes he may be indicted and fined for ſuffering the eſcape; and *quere* if it do not make him acceſſary to the Felony. 9 *H.* 4. 1. *Stam.* 32. *Bro. Eſcape.* 43. *Dalt. J. P. ch.* 106. *fol.* 272.

If a man be Arreſted for ſuſpicion of Felony by the Conſtable, or other perſon, and after they ſhall have Intelligence that there is no ſuch Felony committed, here they may ſet the party Arreſted at Liberty again, and they ſhall not be charged with the Eſcape; for there can be no Felon, where there is no Felony committed. 13 *H* 7. 7. *& Cromp.* 40. *Dalt. J. P. ch.* 106. *fol.* 275.

But

But if a Felony be committed in Deed, and one is Arreſted for the ſame or for Suſpicion thereof; though the Conſtable or other perſon that made the Arreſt, ſhall after have certain Intelligence and knowledge that the party arreſted is not Guilty of the offence, yet they may not ſet the party at liberty, for he muſt not now be delivered by any man's diſcretion, but by due courſe of Law, otherwiſe it will prove a voluntary Eſcape, and ſo Felony, or at leaſt Finable, *Cromp.* 40. 44. *Aſſ.* 12. *Dalt. J. P. ch.* 106. *fol.* 275.

In all caſes of miſdemeanour, where a private perſon hath Authority to Arreſt any for any offence, it is requiſite for him to carry and deliver the Priſoner to the Conſtable, or ſome other Officer. *vide.* 20*E.* 4. 6. *Dal. J. P. ch.* 118 *fol.* 338.

But in caſe where a Juſtice of Peace, Conſtable, or other Officer comes to a Felon to arreſt and take him, and he perceiving, flies into another County before he can be taken, in ſuch caſe the Felon ſhall be carried before ſome Juſtice of Peace of that Countrey where he is taken, and muſt be committed to the Gaol

Gaol of that County, although the Felony were committed in another County. *Bro. faux. Impr.* 25. 11. *E.* 4. *fol.* 5, *a. Dalt. J. P. ch.* 118. *fol.* 340.

If a man be arrested for Felony, and the Constable carry him to the Gaol, and the Gaoler will not receive him, then the Constable must bring him back to the Town where he was taken, and that Town shall be charged with the keeping of him until the next Gaol Delivery, by the opinion of the Book. 10 *H.* 4. or the Constable may in such case keep the prisoner in his own house, as it hath been held by some. See 11 *E.* 4. *Bro. faux. Impr.* 25. *in fine. Dalt. J. P. ch.* 118 *fol.* 340, 341.

But in such case where the Gaoler refuses to receive a prisoner, as above-said, or takes any thing for receiving him, upon Information thereof to the Justices of the Gaol Delivery, they will punish him for his offence. 4 *E.* 3. *ch.* 10. *Poulton Prison* 6. *Dalt. J. P. chap.* 118. *fol.* 341.

The Constable, or other Officer, that shall imprison in the Stocks any Felon, may lock the Stocks, and if need be, may also put Irons on the prisoner, and

and when he conveyeth him to the Gaol, or to the Juſtice, he may pinion him, or otherwiſe make him ſure, ſo that he cannot eſcape, *Dalt. J. P. chap.* 118. *fol.* 342.

CHAP. XIII.

The Conſtables Office about Exciſe.

THoſe Officers under the Commiſſioners of Exciſe, called Gagers, are to have the Conſtable along with them, when they enter by night into the Houſes of any Brewer, Inkeeper, Victualler *&c.* to gage their Coppers, Fats or Veſſels, or to take an Account of their Beer, Ale, Worts, Perry, Syder, Strong-waters, Metheglin, Mead, Coffee, Chokolet, Sherbet or Tea, Brewed, made or diſtilled in the ſaid Houſes 12 *Car.* 2. *ch.* 23,24.

Such perſons as ſhall be convicted before the Juſtices of Peace, or Commiſſioners of Exciſe, of any offence and Forfeiture within the Acts for Exciſe; The Conſtables, upon Warrant to them directed from the Juſtices of Peace, are to

to levy the penalties upon the Goods of the offenders by diſtreſs and ſale thereof, rendring the overplus to the owners, and for want of diſtreſs, they are to carry the party to the Gaol, there to remain till ſatisfaction be made. 12 *Car.* 2. *ch.* 23. 24.

The Conſtables are alſo upon Warrant to them directed, to Summon all Ale-houſe-keepers, *&c.* to appear before the Commiſſioners of Exciſe at ſuch days and places as ſhall be appointed in the ſaid Warrants from time to time.

CHAP. XIV.

The Conſtables Office about Fiſh.

THE Conſtables and Churchwardens, by Warrant from any one or more Juſtices of the Peace, where any offence is committed in deſtroying the Spawn and breed of Fiſh, along the Sea-ſhore, or in any Haven or Creek, or within five miles of the mouth of any Haven or Creek, by Fiſhing with Nets of leſs Meſh then three

three Inches and an half between knot and knot) are to levy the penalty by diſtreſs and ſale of the offenders Goods, rendring the overplus to the owners; the penalty is Ten ſhillings and forfeiture of their Nets. 3 *Jac. ch.* 12. *Wingate's Abr. Stat. Tit. Fiſh. Fiſhers and Fiſhing.*

If any Ling, Herring, Codd, or Pilcherd, Freſh or Salt, dried or bloated, or any Salmons, Eels or Congers, taken by Foreiners, Aliens to the Kingdom of *England* ſhall be imported, uttered, ſold, or expoſed to ſale in this Kingdom, in ſuch caſe the Conſtable, Headborough, *&c.* or any other perſon may take and ſeize the ſame, and one half thereof muſt go to the uſe of the poor of the Pariſh where the ſame is ſo found and ſeized, and the other half to the uſe of the party that ſeizes the ſame. 18 *Car.* 2. *chap.* 2.

CHAP.

CHAP. XV.

The Constables Office about forcible Entries, &c.

IF a Constable, or any private person of the same County do refuse to attend and assist the Justices of Peace, upon request to remove a Force, or to convey the parties to the Gaol, he may be imprison'd for his neglect, and made Fine to the King. 15 *R.* 2. *ch.*2. *Dalton's J.P. ch.* 22. *fol.* 57.

CHAP. XVI.

The Constables Office about Hedg-breakers, &c.

ALL such lewd persons as are convicted before a Justice of Peace, for taking away any Corn growing, Robbing of Orchards, breaking Hedges, *&c.* and their Procurers and Receivers knowing the same, if they cannot give the Parties grieved such satisfaction as the Justice shall think fit, then the

the Juſtice may commit him to the Conſtable to be whipped for the firſt offence. and the like pain for the ſecond offence. And if the Conſtable or other inferiour Officer, do not by himſelf, or ſome other, ſee the ſame be done accordingly, then the Juſtice may commit ſuch Officer to the Gaol, there to remain without Bail, until the ſaid Offender be by the ſaid Conſtable, or ſome other by his procurement, whipped, as aforeſaid, and this by the 43 *El. chap.* 7.

But now by the 15 *Car.* 2. every Conſtable, Headborough, or other perſon, in every County, City, Town-Corporate, or other place, where they ſhall be Officers and Inhabitants, have power to apprehend, or cauſe to be apprehended ſuch perſons as they ſuſpect, for having or carrying, or any wiſe conveying any Burthen or Bundles of any kind of Wood, Underwood, Poles, or young Trees, or Bark or Baſt of any Tree, or any Gates, Styles, Poſts, Pales, Rales, or Hedgewood, Broom or Furze; and any Conſtable, Headborough, *&c.* by Warrant under the Hand and Seal of one

Juſtice &c. may enter into the Houſes, Out-houſes, Yards, Gardens or other places belonging to the Houſes of ſuch perſons as they ſhall ſuſpect to have any Woods, Underwood, &c. and whereſoever they ſhall find any, ſuch to apprehend, or cauſe to be apprehended the perſons ſuſpected for cutting the ſame, and thoſe alſo in whoſe houſes or other places belonging to them any ſuch Wood, Underwood, &c. ſhall be found to carry before ſome Juſtice of Peace of the County, City &c. and if the party cannot give a good account to the Juſtice how he came by the ſame Wood, &c. by the conſent of the owner, ſuch as to ſatisfie the Juſtice, or, ſhall not within ſuch time as the Juſtice appoints, produce the party of whom he bought it, or ſome other credible witneſs to depoſe upon Oath ſuch ſale of the ſaid Wood, &c. then ſuch perſon ſhall be deemed convicted of the cutting and ſpoiling Wood, &c. within the meaning of the Statute of 43. *Eliz.* aforeſaid; and for the firſt offence, if they do not give the owner ſuch ſatisfaction, and within ſuch time as the Juſtice ſhall appoint, and pay o-

ver

ver and above down preſently to the uſe of the Poor of the place where the offence is committed, ſuch a ſum of money as the Juſtice ſhall appoint not exceeding ten ſhillings, then the Juſtice may commit the party offending to the Houſe of Correction for ſo long time, not exceeding one Moneth, as he ſhall think meet, or otherwiſe to be whipped by the Conſtable or other Officer; and if ſuch perſon offend again, and be convicted as before, then he muſt be ſent to the Houſe of Correction for one moneth, and there held to hard labour, and if he offend the third time, and be convicted, then he muſt be uſed as an incorrigible Rogue. 15 *Car.* 2. *ch.* 2.

And if any perſon buy any burthens of Wood, Poles, Sticks, Underwood, *&c.* of any who may juſtly be ſuſpected to have ſtoln, or unlawfully come by the ſame; then upon complaint to a Juſtice of Peace, Head Officer, *&c.* if upon examination by Oath, *&c.* he find that the ſame were bought of ſuch perſon, as aforeſaid, then the Juſtice may order the party that bought the ſame to pay the Trebble value of the Wood,

&c. to the party from whom they were ſtoln or unlawfully taken; and in default of preſent payment, the Juſtice may iſſue out his Warrant to the Conſtable, to levy the ſame by diſtreſs and ſale of the Offenders Goods, rendring the overplus to the owner, and for lack of ſuch diſtreſs, then to commit the party to the Gaol at his own charge, there to remain one month without Bayl. 15 *Car.* 2. *chap.* 2.

Note, that none is to be puniſhed by this Law, who hath been puniſhed by a former Law for the ſame offence, nor is any to be queſtioned for any offence within this Statute, unleſs it be within ſix weeks after the offence committed. 15 *Car.* 2. *chap.* 2.

CHAP. XVII.

The Conſtables Office about High-wayes.

THe Churchwardens and Conſtables, or Tythingmen of every Pariſh are upon the Monday or Tueſday in *Eaſter* week (after notice given publickly in the Church the Sabbath day before

before) after Morning Prayer ended, with the advice and consent of the major part of the Parish then present, to chuse two or more of the sufficient Inhabitants of the place, to be Surveyors or *Supra*-Visors for their Highways for the next year, and give notice thereof to the parties chosen in writing, under pain of five pounds to be forfeited by the same Constable, Churchwardens and Parish, by the *Stat. 14 Car. 2. ch.* 6. which Statute is to continue till the end of the first Sessions of the next Parliament, or they may be punished by Fine or Amerciament in the Quarter Sessions, by the discretion of the Justices. 2, 3, *P. & M. chap* 8.

The Constables and Churchwardens are then also to appoint six days betwixt that and the four and Twentieth day of *June*, for the amendment of the High ways, and to give publick notice thereof in the Church the next Sunday after. 2, *&* 3, *P. & M. chap.* 8. *&* 5 *Eliz. chap.* 13.

Stewards in Leets have power to enquire after the breach of the Act of the 2, *&* 3, *P. & M.* about High-ways

and to ſet Fines upon ſuch as make default at their diſcretion, and ſhall within ſix weeks after *Michaelmas* deliver Indented Eſtreats thereof under their Hands and Seals, *viz.* one part thereof to the Bayliff or High Conſtable of the Liberty, and the other to the Conſtable and Churchwardens of the Pariſh where the Default was made. 2 & 3 *P. & M. chap.* 8.

And in default of preſentment thereof in Leets, the Juſtices of Peace in the Seſſions ſhall enquire thereof, and ſet ſuch Fines as they or two of them *quor. unus*, ſhall think fit, whereof the Clerk of the Peace ſhall deliver Indented Eſtreats under his Hand and Seal, within ſix weeks of *Michaelmas*, in like ſort as aforeſaid. 2, 3, *P. & M. chap.* 8.

And theſe Eſtreats of the Stewards of Leets, or Clerk of the Peace ſhall be a ſufficient Warrant for the Bayliff or chief Conſtable to levy the ſaid Fines by way of Diſtreſs; and if no Diſtreſs can be found, or the party do not pay the Fine within twenty days after lawful demand thereof, he or they ſhall forfeit double ſo much; all which Fines

and

and Forfeitures ſhall be beſtowed by the Conſtable and Churchwardens on the High-ways in the ſame Pariſh. 2, 3, *P. & M. chap.* 8. *Dalton's* J. P. *ch.* 26. *fol.* 71.

And the Bayliff or High Conſtable is yearly, between the firſt of *March* and laſt of *April*, to render unto the Conſtable and Churchwardens to whom the other part of the Eſtreate was delivered, a true Account of the Monies received by them, in pain of Forty ſhillings, and the ſaid Conſtables and Churchwardens have power to call the Bayliff or High Conſtable before two Juſtices of the Peace (*Quor. un.*) to paſs the Account, who have power to commit ſuch Bayliff or High-Conſtable, until they have ſatisfied all the Arrearages by them received. 2, 3, *P. & M. chap.* 8. *Dalt. J. P. chap.* 26. *fol.* 70.

And upon paſſing ſuch account, every Bayliff or High Conſtable ſhall have allowed Eight pence for their pains for every pound collected, and Twelve pence for the Fee for the Eſtreate delivered. 2, 3, *P. & M. chap.* 8. *Dalt. J. P. chap.* 26. *fol.* 70.

Any two Justices of Peace, upon complaint to them made by the succeeding Constables and Churchwardens, may call before them the precedent Constables and Churchwardens, and may take their Accounts, and compel them, as aforesaid, to pay in all Arrearages in their hands. 2, 3, *P. & M. ch.* 8. *Dalt. J. P. chap.* 26. *fol.* 71.

All Fines and Forfeitures assessed in the Sessions upon the *Stat.* 5. *El.* about High-ways, must be Estreated by the Clerk of the Peace, and must be levied, accounted and imployed as it is appointed by the 2, 3, *P. & M. chap.* 8. 5 *Eliz. chap.* 13.

The Surveyors upon Warrant from two Justices of Peace, are to levy by distress and sale of Goods, the Forfeitures of all such persons as offend against the 18 *Eliz.* 10. in not Scowring their Ditches, *&c.* and if they neglect by the space of a year after the offence committed to levy the Forfeiture: Then the Justices may send to the Constables and Churchwardens to levy the same. 18 *Eliz. chap.* 10.

The Constables or other Officers by Warrant from any of his Majesties Justices

ſtices of either Bench, Barons of the Exchequer, or Juſtices of the Peace to them directed, are to levy by Diſtreſs and Sale of the Offenders Goods and Chattels, all ſuch penalties (rendring the overplus to the owner) as ſhall be forfeited by any perſon upon the Act of the 14 *Car. 2. ch. 2.* for repairing the High-ways and Sewers, and for paving and keeping clean the Streets in and about the Cities of *London* and *Weſtminſter*, &c. and for default of Diſtreſs or *Non*-payment of the ſaid penalties within ſix days after demand thereof, or notice in writing left at the houſe or dwelling place of the Offender, by the ſaid Conſtable or other Officer; the ſaid Offender not being a Peer of the Realm, may be committed to the common Gaol of the ſaid County or City reſpectively, by the Warrant of any ſuch Juſtice under his Hand and Seal, there to remain without Bayl or Mainprize until payment. 14 *Car. 2. chap. 2.*

By the *Stat.* 22 *Car. 2. ch.* 12. All Conſtables and Surveyors of the High-ways ſhall be put in execution the Statutes for repairing or inlarging High-

ways, and levy the penalties thereby impoſed, And every Conſtable or Surveyer of the High-ways neglecting ſo to do, or wilfully ſuffering any Wagons or Carts to paſs through his Limits, with any more Horſes or Cattle, or in any other manner then this Act alloweth, upon conviction thereof by one Oath before one Juſtice, or the Juſtices own view, ſhall pay ſuch fine (not exceeding 40 s.) as ſuch Juſtice ſhall Aſſeſs.

All Actions brought againſt any perſon for acting by this Law, ſhall be laid in the proper County, and Defendants may plead the General Iſſue, and recover treble Coſts.

The Clauſe in the former Act about the Tyre of Wheels is repealed.

Enacted that after the 24 th of July, 1670. No travelling Wagon, Cart, &c. in which any Burdens ſhall be carryed, (except Carts uſed about Husbandry, and carrying Hay, Straw, Corn, unthraſhed, Coal, Chalk, Timber for Shipping or Building, Stones of all ſorts, Amunition or Artillery for the King) ſhall be drawn, or go in any road or publick High-way, with above five

Horſe

Horſe-beaſts at length, and if any draw with more Horſes or Oxen, he ſhall draw all two a breaſt except one Horſe.

Every owner of any Wagon, Cart, *&c.* Horſe or Beaſts, ſhall forfeit for every offence 40 *s.* One third part to the Surveyors to amend the ways; One third part to the Overſeers for the Poor; The laſt third part to him who ſhall diſcover the Offender; to be levyed as the penalties againſt Conſtables, *&c.* for their neglects before mentioned.

The Surveyor, upon neglect to come and labour, ſhall complain thereof to the next Juſtices, who, upon Oath of one witneſs ſhall levy for every day labour neglected 18 *d.* and for every Man and Horſe 3 *s.* and for every Cart with two men 10 *s.* for each day neglecting.

CHAP.

CHAP. XVIII.

The Constables Office about Stoned Horses.

NOne ought to put to feed upon Forrests or Common, except they be Commons where Mares are not usually kept) any Stoned Horse, being above Two years old, and not Fifteen hands high from the lower part of the hoof to the upper part of the wither (every hand containing four inches, Standard measure) in pain to forfeit the same Horse. 32 *H.* 8. *ch.* 13.

If any Stoned Horse of lesser stature be put to feed in any such Common (unless it be in the Fen grounds of the Isle of *Ely*, and of the Counties of *Cambridge*, *Huntington*, *Northampton*, *Lincoln*, *Norfolk* or *Suffolk*, where they need be but Thirteen hands high) any man may seize them to his own use, so that first by the assistance of the keeper of the ground, or Constable, Bayliff, Headborough, or such other Officer of the Parish adjoyning, such Horse be brought to the next Pound, and there by such Officer, in the presence of three other

other ſufficient men, he be meaſured and found lower than the Statute, 32 *H.* 8. *ch.* 13. 8 *Eliz. ch.* 8. *Wingate Abr. Stat. Tit. Horſes.*

Thoſe that refuſe to Meaſure, or to be preſent at meaſuring do forfeit 40 *s.* a piece for every ſuch default, to be divided between the King and Proſecutor, but note that an Horſe that makes an Eſcape into ſuch Common ſhall not be queſtioned, ſo that he ſtay not above Four days after notice thereof at the owners Houſe, or in his Pariſh Church 32 *H.* 8. *ch.* 13.

Forreſts and Common grounds muſt be driven yearly at *Michaelmas* or within Fifteen days after, by the Keepers, Conſtables, or other Officers aboveſaid, in pain of Forty ſhillings; and they have power to drive them at any other time of the year at their pleaſure, and ſuch likewiſe have the owners of the ground. And if upon the drift any unlikely Tits ſhall be found, they may be killed. 32 *H.* 8. *ch.* 13. *Wingate Abr. Stat. Tit. Horſes.*

Note that this Act of the 32 H. 8. *ch.* 13. is not to extend to the County of *Cornwal.* 21 *Jac. ch.* 28.

CHAP.

CHAP. XIX.

The Constables Office about Hue and Cry.

THE Constables and Officers of every Town, to which Hue and Cry shall come, ought to search in all suspected houses and places within their Limits: and as well the Officers as all other persons which shall pursue the Hue and Cry may attach and stay all such persons, as in their search and, pursuit they shall find to be suspicious, and thereupon shall carry them before some Justice of Peace, of the County where they are taken to be examined, where they were at the time of the Felony committed; and if any Default be in the Officers, they may be fined by the Justices for their Neglect. *Dalt. J. P. chap. 28. fol. 75.*

In case of a Robbery where Damages are recovered against one or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto, in such case two Justices of the Peace (*Quor. un.*) dwelling within or near the Hundred, may for the levying

ing thereof ſet a Tax upon every Pariſh within that Hundred, acording to which the Conſtables and Headboroughs of every Town muſt Tax the particular Inhabitants within their Conſtableries, and then levy the money upon ſuch as refuſe by, Diſtreſs and Sale of their Goods, reſtoring them the overplus, and after the money is gathered, they are to deliver the ſame to the Juſtices, or ſome of them that made the Rate within ten dayes. 27 *Eliz. chap.* 13. *Wingate's Abr. Stat. Tit. Robbery. Poult. Hue and Cry.* 6. *Dalt. J. P. chaap.* 48. *fol.* 132.

The Hundred where freſh ſuit ſhall ceaſe, ſhall anſwer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *Weſtminſter*, in the Name of the Clerk of the Peace of the County where the Felony was committed, and here, the death or change of the Clerk of the Peace ſhall not abate the Suit, to be taxed and levied, as aforeſaid, 27 *Eliz. chap.* 13. *Wingate's Stat. Tit. Robbery.*

Note, that the Hundred is not charge

chargeable for the Robbery; when any one of the Malefactors shall be apprehended, or when the Action is not prosecuted within one year after the Robbery committed; and note also, that the Hue and Cry shall not be deemed Legal, unless the pursuit be both by Horse and Foot. *Wingate's Stat. Tit. Robbery. Bract. Lib.* 3. *fol.* 121. *vide Co.* 7. *Lib. fo.* 6. 7. 23 *Eliz. Dyer. fo.* 370. *Dal. J. P. fo.* 133.

He that goeth not at the command of the Sheriff or Constable at the Cry of the County, that is, upon Hue and Cry to arrest Felons, after attainder, shall be grievously fined and imprisoned. *West.* 1. *chap.* 9. *Co.* 2. *Part. Inst. fol.* 172. 2 *H.* 7. 13. *b.* 5 *H.* 7. 5, *a.*

CHAP. XX.

The Constables Office about Labourers and Servants.

THE Constable in time of Hay and Corn Harvest, upon the request to him made by any man who wants

wants Labourers, for the avoiding of the loſs of Corn, Grain, and Hay, may cauſe all ſuch Artificers, as he ſhall ſee meet to labour, to ſerve by the day for Mowing, Reaping, or otherwiſe, for the getting in of Corn or Hay abroad, according as they ſee them fit and able to perform; and if ſuch perſons ſhall refuſe to work, after they are requeſted thereunto by the Conſtable, the Conſtable may then ſet them in the Stocks by the ſpace of two days and one night; and if the Conſtable neglect to perform his Office, he Forfeits Forty ſhillings, 5 *Eliz. ch.* 14. *Wingate's Stat. Tit. Labourers.*

And it is alſo provided by the ſaid 5 *Eliz.* that no perſon retained in Husbandry, or in any Arts appointed by that Statute, ſhall depart after the time of ſuch Retainer expired; out of the City, Town, or Pariſh where he laſt ſerved to ſerve in another, without a Teſtimonial, to wit, (in a Town Corporate) under the Hands and Seals of the Magiſtrate and two Houſe-holders there, and in the Countrey under the Hands and Seals of the Conſtable or Conſtables, and two Houſe-

holders

holders of the Town or Parish where he last served (which Testimonial must be Registred by the Minister, for which he is to have two pence, and then to be delivered to the Party. 5 *Eliz. chap.* 4. *Wingate's Stat. Tit. Labourers.*

But these Testimonials are now very seldom used, although the Statute be very penal in the same; for the Master that retains a Servant without such a Testimonial, forfeits five pounds, being thereof convicted upon Indictment taken in the Sessions of the Peace, and every Servant which sheweth not such a Testimonial to the cheif Officer in a Corporation, or to the Constable or such other Officer, Minister or Churchwardens of the place where he is to dwell, may be imprisoned till he procure one, and if he produce not one within one and twenty days, next after the first day of his imprisonment, or if he shall shew a false or counterfeit one, then he is to be whipped and used as a Vagabond. *Dalt. J. P. chap.* 31, *fol.* 86. 5 *Eliz. chap.* 4.

The

The Form of a Teſtimonial is after this manner:

Memorandum that A. B. *Servant to* C. D. *of* Kirk-Leaventon, *in the County of* York, *Husbandman is licenſed to depart from his ſaid Maſter, and is at his Liberty to ſerve elſewhere, according to the Statute in this Caſe made and provided. In witneſs whereof we have hereunto ſet our Hands and Seals this Tenth day of* November, *in the* 19th *year of the Reign of our moſt gracious Soveraign Lord King* Charles *the Second*; Annoq; Domini 1667.

Jo. Metcalf *Conſtable of* Kirk-Leaventon.

T. H.
G. B. } Houſhoulders there.

If it be one that lives with a woman then ſay, *is Licenced to depart from his Miſtriſs or Dame as ſhe is*; and if his Maſter be not an Husbandman, but a Taylor, Smith, Joyner, or ſome other Trade, then name him accordingly in the Teſtimonial.

CHAP.

CHAP. XXI.

The Constables Office about Malt making.

THe Constables and Bayliffs of any Town, where any deceitful Malt shall be made, or mingled to be sold contrary to the *Stat.* 2 *E.* 6. may from time to time view and search all such Malt as shall be made, or put to sale within any of their Towns, being evil made, or mingled with evil Malt, contrary to the Statute; then the said Constable or Bayliff, so finding any such deceitful Malt, with advice of any one Justice of Peace, may cause the same to be sold to such persons, and at such reasonable prizes as to the discretion of the same Justice shall seem expedient. 2 *E.* 6. *ch.* 10. 21 *Jac. ch.* 28. 3 *Car.* 1. *ch.* 4. *Dalt. J. P. ch.* 33. *fol.* 86, 87.

Now these deceitful Malts are of three sorts, to wit, such as are not well made, and that is where Barley Malt hath not in the making thereof in the Fat, Floor, Steeping and drying thereof, three weeks at the least, except it be in the Months of *June*, *July* and *August*, and

and in thoſe Months it muſt have 17. days; for under ſuch times it cannot be well made nor wholeſom. 2 *E.*6. *ch.*10. *Dalt. J. P. ch.* 33. *fol.*87.

Secondly, No Malt ought to be put to ſale, unleſs before the ſale thereof, by treading, rubbing and fanning it, they take out of every Quarter half a peck of duſt or more, on pain to forfeit 20 pence for every Quarter otherwiſe ſold, to be divided between the King and the Proſecutor. 2 *E.* 6. 10.

And Thirdly, If any Malts be put to ſale, which are not well made, as aforeſaid, according to the limited time, or which are made of Mow-burnt or ſpired Barley, or mixed of good or bad together, they forfeit for every Quarter ſo put to ſale Two ſhillings to be divided between the King and the Proſecutor, as aforeſaid. 2 *E.* 6. *ch.* 10. *& Wingate's Stat. Tit. Malt.*

Note, That none ſhall be puniſhed by this Act, who only make the Malt for their own proviſion, nor for the penalties 20 *d.* or 2 *s. per* quarter, unleſs the Action be proſecuted within one year. *Wingate Stat. Tit. Malt.* 2 *E.* 6. *ch.*10. *Dalt. J. P. ch.* 33. *fol.* 87.

CHAP.

CHAP. XXII.

The Constables Office about the Militia.

THe Constables by Warrant to that purpose, under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to levy such Sums, Forfeitures, Penalties and Payments, as shall be charged upon any person, or persons within their several Constableries, for the furnishing of Arms, Horse, or Foot, or payment of Souldiers, *&c.* according to the Acts for the Militia. 14 *Car.* 2. *ch.* 3. 15 *Car.* 2. *ch.* 4.

And where sufficient Distress cannot be had, then the Lord Lieutenants, or their Deputies, by like Warrant to the Constable, may commit such Offender to Prison until he shall make satisfaction according to the said Forfeiture, Payment, or Penalty. 35 *Car.* 2. *chap.* 4.

CHAP.

CHAP. XXIII.

The Constables Office about Mos-Troopers.

THE Constables and other Officers within the Counties of *Northumberland* and *Cumberland* upon Warrant from the Justices of the Peace, are to Levy by Distress and sale of the Parties Goods (rendring the overplus to the owners) all such sums as shall be charged upon any person within their several Constableries, by the Justices at their Sessions, for the safeguard of the Countries against the Injury, Theft, and Rapine of Mos-Troopers; and the Justices also may examine any complaint against the Constables or other Officers that shall neglect, or refuse, or fail to give obedience to the Act, or do any thing in disturbance thereof, and bind over such person to the Quarter Sessions to be proceeded against according to Justice. *14 Car. 2. chap. 22.*

This Act took force from *Michaelmas* 1662. and was to continue five years, and now by the *Stat. 18. Car. 2.*

it

it is continued for ſeven years longer, which is till *Michaelmas*, 1674. 18 *Car.* 2. *ch.* 3.

CHAP. XXIV.

The Conſtables Office about Diſturbing of Miniſters.

IF any ſhall purpoſely, without Authority, diſturb a Preacher lawfully licenced in his Preaching of the Word, Praying, or Adminiſtring of the Sacrament, either by their talking, laughing humming or the like, any one of the Conſtables or Churchwardens of the place may of his own Authority preſently apprehend the party, and carry him before a Juſtice of Peace of the ſame County, who upon due accuſation may, if he think it fit, commit him to ſafe cuſtody, and within ſix days after, taking with him another Juſtice of the Peace, they may examine the matter; and if by proof of Two Witneſſes they find it true, they muſt commit him to the Common Gaol, there to remain for Three Months, and from thence

thence to the next Quarter Seſſions, at which upon the parties Reconciliation and entring into bond, for the good behaviour for one whole year (at the diſcretion of the Juſtices he may be releaſed) but if he perſiſt ſtill in his obſtinacy, he muſt remain in Priſon ſtill without Bayl, until he ſhall reconcile, and be penitent for his offence. 1 *Mar. Seſſ.* 3. *ch.* 3. *Wingate's Stat. Tit. Sacraments. Dal. J. P. chap.* 41. *fo.* 103.

He that reſcues an offender in this kind, ſhall ſuffer like Impriſonment, and forfeit five pounds beſides, and the Inhabitants that ſuffer ſuch an offender to eſcape, being preſented before the Juſtices of Peace in the Seſſions within the County, or Corporation where the eſcape was made, do alſo forfeit five pounds. *Wingate's Stat. Tit. Sacraments.* 1 *M. Seſſ.* 2. *ch.* 3.

This Act does not reſtrain the Juriſdiction of the Eccleſiaſtical Law, howbeit none are to be puniſhed twice for one offence; *Quare* of this Statute, for ſome think it is Repealed by the 1 *El. ch.* 2. *vide Lamb.* 199. *Cromp.* 14. *Dalt. J. P. ch.* 41. *fol.* 103, 104.

CHAP. XXV.

The Constables Office about the Peace.

THE Constable may do what he can to keep the Peace, but he cannot take Surety of the Peace at the request of any man. *Cromp.* 6. 12 *H.* 7. *fol.* 18. *a.*

Note, that the breach of the Peace is said to be any injurious force or violence used against the person of another, his Goods, Lands, or other Possessions, whether it be threatning words or furious gestures, or force of the body, or any other force used *in terrorem, Dalt.* 7. *P. ch* 3. *fol.* 9.

The Constable or other Officer, before he Arrest the party upon a Warrant for the Peace, ought first to acquaint him with the matters, and withal, require or Charge the party in the King's Name, to go along with him before the Justice, to find and put in Sureties according to the Warrant; and if the party refuse either to go before the Justice, or to find Sureties; then the Officer, by vertue of the said Warrant

rant may and ought forthwith Arrest him, and convey him to the Gaol without carrying him to any Justice, and there the party is to remain until he shall voluntarily offer and find Sureties; and then such Officer must be at the next Sessions of the Peace, there to deliver his said Warrant in, and to certifie all that he hath done thereupon. *Dalt. J. P. ch. 69. fol. 166. 5 E. 4. 13. Lamb. 92. Bro. fx. Imp. 18 Cromp. 235.*

But if the party yield to go and find Sureties, then the Officer may not absolutely Arrest him, but yet the Officer is not bound to go up and down with the party to find Sureties, but may keep him till he can procure Sureties to come to him; and, if afterwards the party shall make any resistance, or shall offer to go his way, then the Officer may Arrest him and carry him to the Gaol, or else imprison him in the Stocks until he can provide aid to carry him to the Gaol, *Dalt. J. P. ch. 69. fol. 166.*

If a Constable, or other Officer having a Warrant from a Justice of Peace to Arrest a man, to find Sureties for the Peace, do afterwards receive a *Su-*

perſedeas out of the Chancery, *&c.* or from another Juſtice of the Peace of the ſame County, to diſcharge the ſame Surety of the Peace, and yet nevertheleſs the Officer will urge the party to find Sureties by vertue of the Warrant, the party may refuſe to give it, and if he be Arreſted or Impriſoned for ſuch Refuſal, he may have his Action of falſe Impriſonment againſt ſuch Officer; for ſuch *Superſedeas* is a Diſcharge of the former Precept or Warrant. *Lamb.* 101. *Dalt. J.P. chap.* 69. *fol.* 168.

If any ſhall abuſe a Conſtable in doing of his Office, the Conſtable may have the party bound to his good behaviour for it. *Fitz. Barr.* 202. *Cromp.* 135.

If a Conſtable be informed that a man and a woman be in Adultery or Fornication together, or that a man and a woman of evil Report are gone to a ſuſpected houſe together in the Night, the Conſtable may take company with him, and if he find them ſo, he may carry them before a Juſtice of Peace, to find Sureties for the good behaviour. 13 *H.* 7. 10. *Bro. Traverſ.* 432. *Dalt. J.P. chap.* 75. *fol.* 189.

CHAP.

CHAP. XXVI.

The Constables Office about Physicians.

THE Constables and other Officers in *London*, and within seven miles round, are to be aiding and assisting to the President of the Colledge of Physitians, and all persons authorized by the said Colledge for the due execution of the Laws and Statutes belonging to the said Colledge, upon pain of running into contempt to the King. 1 *M. Par.* 1. *Sess.* 2. *ch.* 9. *Wingate's Stat. Tit. Physicians.*

CHAP. XXVII.

The Constables Office about the Plague.

IF any person Infected, or being or dwelling in an house infected with the Plague, shall be by the Constable commanded to keep his house, and notwithstanding shall wilfully go abroad and converse in company, having any infectious sore on him, it is Felony;

and if such person shall not have such Sore about him, yet for his Offence he shall be punished as a Vagabond, by the appointment of any one Justice of the Peace, and further, shall be bound to his good behaviour for one whole year. *Wingate's Stat. Tit. Plague.* 1 *Jac. ch.* 31. *Dalt. J. P. ch.* 39. *fol.* 91.

The Justices of Peace, or any one of them, and other Head Officer in Corporate Towns, within their several limits, may appoint Searchers, Watchmen, Examiners, Keepers, and Buriers for the persons and places infected; and, if any person infected or dwelling and being in an infected house, shall contrary to the commandment or appointment of the Justice of Peace, or Constable, *&c.* wilfully attempt to go abroad, or resist such their Keepers or Watchmen, then may such Watchmen with violence force them to keep their houses, and if any hurt happen thereupon, the Watchmen shall not be impeached therefore. 1 *Jac. ch.* 31. *Dalt. J. P. ch.* 39. *fol.* 91. *Cromp.* 122. *b. Wingate's Stat. Tit. Plague.*

If the Constable or other Officer wilfully neglect to levy the money (*by* Warrant

Warrant from two Juſtices of Peace, upon the Statute for Relief of any Town infected with the Plague) by Diſtreſs and ſale of the Goods of ſuch perſons as refuſe or neglect to pay; then they forfeit for every ſuch Offence Ten ſhillings, to be imployed to the ſaid charitable uſe. *Wingate's Stat. Tit. Plague. 1 Jac. ch.* 31. *Dalt. J. P. ch.* 39. *fol.* 91.

CHAP. XXVIII.

The Conſtables Office about conveying Priſoners to the Gaol.

AN Offender which is to be conveyed to the Gaol, if he be able muſt bear all charges, both of himſelf and of thoſe that guard him; and if he refuſe to defray and bear the charges, or ſhall not at the time of commitment pay or bear the ſame, then upon a Warrant from a Juſtice of Peace, the Conſtable of the Townſhip, where the Offender hath any Goods (being within the ſame County) may ſell ſo many of the parties Goods as in the diſcretion

of the Justice shall be thought sufficient to satisfie the said charges, the Apprizement to be made by four Inhabitants of the Parish where such Goods be, and the overplus to be rendred to the owner. 3 *Jac. ch.* 10. *Dalt. ch.* 43. *fol.* 104. *Wingate Stat. Tit. Prison.*

And if the Offender have no Goods to satisfie the charges, then the charge must be born by the Town where the Offender was taken, which must be laid on by way of Tax by the Constable, Churchwardens, and two or three other honest Inhabitants, and where there are no such Officers, then four of the principal Inhabitants of the Parish must lay on the Tax, which being allowed under the hand of a Justce of Peace, every Inhabitant must pay their proportion according to the Tax; and if any refuse to pay the Constable, Tythingman, or other Officer, by Warrant from a Justice of Peace, may levy the same by Distress (and after appraisement by four Inhabitants there) may sell the same, rendring the overplus to the party so refusing, 3 *Jac. ch.* 10. *Wingate's Stat. Tit. Prison.*

Here if the Constable, or other Officer,

cer, that distrains, be sued, he shall plead Justification, and upon Verdict for, or Non suit of the Plaintiff, he shall recover trebble Damages, besides Costs of Suit. 3 *Jac. ch.* 10.

CHAP. XXIX.

The Constables Office about Purveyance.

THe Constables duty about Purveyance, upon the *Stat.* 36 *E.* 3. *ch.*2. 5 *E.* 3. *ch.* 20 *H.* 6. *ch.* 8. 23 *H.* 6. *ch.*14. *&* 2, 3. *P. & M. ch.* 6. is now of little or no use; for it is enacted by the 12 *Car.* 2. That from henceforth no Monies or other things shall be taken, rated or levyed for any Provision, Carriages, or Purveyance for the King, his Heirs, *&c.* or for the King or Queen or any of their Children, for the time being, or any of his Houshold, of any Timber, Fewel, Cattel, Corn, Grain, Malt, Hay, Straw, Victuals, Cart, or Carriage, Oxen, Horses, Ploughs, Wains or other Carriages, or any other thing from any Subject, without the full and free consent of the owner

firſt obtained without menace or inforcement; but note, that this aforeſaid clauſe being found to be too prejudicial to the King, if the Subjects might not be forced at reaſonable Prizes to furniſh the King with Carriages, is therefore altered by the *Stat.* of the 13 *Car.* 2. *ch.* 8. and is thus enacted.

That the Clerk or Chief Officer of the Kings Carriages, three dayes before his Majeſties Arrival, by Warrant from the Green-cloth, ſhall give notice in writing to two Juſtices of the Peace adjoyning to the place where his Majeſty is to come, to provide ſuch a number of Carts and Carriages as the ſaid Officer ſhall need for the work, and to expreſs the time and place where the ſaid Carts and Carriages are to attend: and then theſe Juſtices are to require the Countrey to provide the number of Carts and Carriages of four able Horſes or four Oxen and two Horſes a piece, at ſix pence a mile for every mile they go laden, to be paid them in hand at the place of lading; and no Carriage to be enforced to travel above one dayes Journey, from the place where they receive their Lading; and if any refuſe

refuſe, or ſhall not be ready at the time and place, not having good cauſe to ſhew to the contrary, the ſaid Juſtices upon due proof thereof, and conviction of the offence by the Oath of two Witneſſes, or the Oath of the Conſtable or other Officer, may (by their Warrant) cauſe to be levyed of the Goods of the Offender 40 *s.* by diſtreſs and ſale, rendring the overplus to the owner. 13 *Car.* 2. *ch.* 8.

If any Juſtice of Peace, Officer, or Conſtable, ſhall take any Gift or Reward to ſpare any perſon from making ſuch Carriage, or ſhall impreſs more Carriages than ſhall be directed from the Green-cloth, upon due proof and conviction thereof, the parties offending ſhall forfeit 10 *l.* to be recovered by any perſon by Action of Debt in any of his Majeſties Courts of Record: And, if any perſon ſhall take upon him to impreſs Horſes, Oxen, Carts and Carriages, other than the perſons aforeſaid, upon Conviction of the offence he ſhall ſuffer the puniſhment contained in the 12 *Car.* 2. *chap.* 24. which ſee in the enſuing caſe of Pre-emption. *Vide* 13 *Car.* 2. *ch.* 8.

No

No Pre-emption shall be allowed to the King, his Heirs or Successors, nor to the Queen, or any of the Children of the Royal Family, in Market, or out of Market; but it is now lawful for all Subjects to dispose of their goods as they please, and if any person shall make any purveyance, or Impress any Carriages (otherwise than is appointed by the 13 *Car.* 2. *ch.* 8. in the two before going Cases by order of the Green-cloth) or other things by colour of any Authority of purveyance for the King, *&c.* contrary to the 12 *Car.* 2. *ch.* 24. then two or one Justice of Peace next adjoyning, and the Constable of the place where such offence shall happen, at the request of the party grieved, shall commit the party offending to the Gaol, until the next Sessions, there to be Indicted and proceeded against for the same, and the party grieved shall have his Action against the Offender, and therein shall recover treble damages and trebble costs. 12 *Car.* 2. *ch.* 24.

Two or more Justices of the Peace by Warrant from the Lord High Admiral of *England*, or two or more of the

the principal Officers or Commiſſioners of the Navy, or of the Maſter of his Majeſties Ordnance, or the Lieutenant of his Ordnance, are to provide Carriages with Horſes and Oxen out of the Countrey, not being above 12 miles diſtant from the place of Lading, the owners of which Carriages, or their Servants, are to receive for every Load of Timber 12 pence *per* mile, and for every Tun of other Commodities 8 pence *per* mile; and ſuch perſons as refuſe or neglect to make their appearance, then upon Oath by the Conſtable, or two credible Witneſſes before the Juſtices, *&c.* ſuch perſon refuſing or neglecting, forfeits 20 s. to be levyed by Diſtreſs and Sale of his Goods and Chattels, by Warrant from the ſaid Juſtices, Mayor, or other chief Officer, or from the principal Officers or Commiſſioners of his Majeſties Navy, or Maſter or Lieutenant of his Majeſties Ordnance, reſpectively, rendring the overplus, if there be any (the charge of Diſtraining being firſt deducted) to the owner: 14 *Car.* 2. *chap.* 20.

Note, That no Horſes, Oxen, Cart, Wain, or other Land Carriage, ſhall be in

inforced to travel more daies Journey from the place where they receive their Lading, or be compelled to continue longer in the imployment, than ſhall be appointed by the order of the ſaid Juſtices of Peace, and that ready mony be made to the parties in hand at the place of Lading, according to the Rates aforeſaid. 14 *Car.* 2. *ch.* 20.

If the Juſtices, Mayor, Chief Officer, Conſtable, or any perſon appointed, ſhall take any Gift or Reward to ſpare any, or maliciouſly charge or grieve any perſon through Envy, *&c.* they forfeit 10 l. to be recovered in any of his Majeſties Courts of Record. And if any take upon them to impreſs Horſes, Oxen, Carts, *&c.* other then the perſons aforeſaid, they are to be puniſhed as is appointed by the 12 *Car.* 2. *ch.* 24. which ſee before in the caſe of Pre-emption. 14 *Car.* 2. *ch.* 20.

Note, that this Act of the 14 *Car.* and the 13 *Car. chap.* 8. ſtand upon continuance till the end of the firſt Seſſion of the next Parliament.

CHAP.

CHAP. XXX.

The Constables Office about Quarter Monies for Maimed Souldiers, Prisoners, &c.

THe Constables and Churchwardens are to levy by Distress and Sale of the Offenders Goods, such money as is rated upon any person within their Constablery for the Relief of poor maimed Souldiers and Mariners, rendring the overplus to the owner. 43 *Eliz.* 3. *Wingate's Stat. Tit. Captains and Souldiers. Car.* 2. *ch.* 9.

And this Money so collected, is to be paid quarterly to the High Constable of the Hundred Ten days before every Quarter Session, or else the Constable and Churchwardens, their Executors, *&c.* forfeit Twenty shillings: And the High Constable is to pay in the Collection Money (to the Treasurers appointed by the Justices) every Quarter Sessions; or otherwise, he, his Executors, *&c.* forfeits 40 *s.* which forfeitures are to be levyed and employed by the Treasurers for the encrease

of

of their Stock for the uſes aforeſaid. 43 *El. ch.* 3. 14 *Car.* 2. *ch.* 9. *& Wingate's Stat. Tit. Captains and Souldiers.*

The High Conſtables are to make Quarterly payment, at every Seſſions unto the Collectors appointed by the Juſtices, of all ſums of Money as are raiſed in every Pariſh, and paid to them by the Churchwardens or Conſtables for the Relief of the Poor Priſoners in the Gaol, under pain of Five pounds 14 *Eliz. ch. Wingate's Stat. Tit. Priſon and Priſoners.*

The Conſtables and Churchwardens are to levy, by Diſtreſs and Sale of the Offenders Goods, ſo much Mony as is rated upon any perſon within their Pariſh, for the Relief of the Priſoners in the *Kings-Bench* and *Marſhalſey*, and alſo of Hoſpitals and Almſhouſes, and relief of the Poor within their County, rendring the overplus to the owner; and for want of ſuch Diſtreſs, the Juſtice of Peace may commit the party to Priſon, there to abide till it be paid, without Bail or Mainprize; which Money the Churchwardens are to pay to the High Conſtable Ten dayes before the end of every Quarter Seſſions; and

if

if the Churchwardens their Executors, *&c.* fail to pay this mony, they forfeit Ten ſhillings; and if the High Conſtable, his Executors, *&c.* fail to pay the Treaſurers of the County the ſame Money at the Quarter Seſſions, they forfeit Twenty ſhillings; which Forfeitures the Treaſurers may levy by Diſtreſs and Sale, as aforeſaid, and the Monies to be imployed to the uſes aforeſaid, 43 *Eliz. ch.* 2. *Wingate's Stat. Tit. Poor people. Dalt. J. P. ch.* 53. *fol.* 135.

CHAP. XXXI.

The Conſtables Office about Popiſh Recuſants.

POpiſh Recuſants above Sixteen years of Age, ſhall within Forty dayes after their conviction repair to their uſual dwelling, and not remove above Five miles from thence, in pain to forfeit all their Goods and Lands, and Annuities, during Life; and if they have no certain abode, then are they to repair to the place where they were born

born, or where their Father and Mother dwells, and within Twenty days after their arrival there, to give their Names in writing to the Minister, Constables and Headboroughs, which Minister is to enter them in a Book, to be kept for that purpose, and he, together with the said Constables, and Headboroughs are to certifie the same to the next Quarter Sessions, where the Justices of Peace must cause the same to be inrolled. 35 *Eliz. chap.* 2. *Wingate's Stat. Tit. Crown.*

The Constables and Churchwardens of every Parish, or the one of them, or, if there be none such, then the High Constables of the Hundred there are once every year to present at the General Sessions of the Peace, the monthly absence from Church of every Popish Recusant, and their Children, being above the age of nine years, and their Servants, together with the age of their Children as near as they can know them, in pain to forfeit respectively for every such default Twenty shillings; which Presentment the Clerk of the Peace, or Town Clerk shall Record without Fee, in pain of Forty shillings

ſhillings. *Wingate's Stat. Tit. Crown. 3 Jac. ch.4.*

If the Miniſter, petty Conſtable, or Churchwardens of any Pariſh, or any two of them, ſhall complain to any Juſtice of Peace, of any perſon ſuſpected for Recuſancy, then any ſuch Juſtice may tender the Oath of Supremacy to the perſon ſuſpected, and if he refuſe to take it, then the Juſtice may commit the party to the Gaol, there to remain until the next Aſſiſes or Seſſions of the Peace, and if then the party refuſe again he incurs a *Præmunire*; but, if it be a Woman Covert, ſhe ſhall only be impriſoned, there to remain without Bayl till ſhe take the ſaid Oath. *Wingat's Stat. Tit. Crown. Dalt. J. P. ch. 45. fol. 108. 7 Jac. ch.6.*

CHAP. XXXII.

The Conſtables Office about Riots and Routs.

SHeriffs, Conſtables, and all other the King's Officers, ſhall ſuppreſs Rioters, and impriſon them, and all other

ther Offenders againſt the Peace. *Wingate's Stat. Tit. Riots. &c. 27 R. 2. ch. 8.*

Knights and all other Temporal perſons under the degree, that be above the Age of Fifteen years, and be able to Travel, upon warning given are to be aſſiſtant to the Juſtices, when they ſhall be reaſonably requeſted to ſuppreſs Riots on pain of impriſonment, and to make ranſome to the King. *2 H. 5. 8. Wingate's Stat. Tit. Riots,* &c. *Dalt. J. P. ch. 46. fol. 114.*

Note, where three perſons or more ſhall come or aſſemble themſelves together, to the intent to do any unlawful Act, with force or violence againſt the perſon of another, his Poſſeſſions or Goods, as to kill, beat, or otherwiſe to hurt, or to impriſon a man; to pull down an Houſe, Wall, Pale, Hedge, or Ditch; wrongfully to enter upon, or into another mans Poſſeſſion, Houſe or Lands, *&c.* or to cut or take away Corn, Graſs, Wood, or other Goods wrongfully, or to hunt unlawfully in any Park or Warren, or to do any other unlawful Act (with force or violence) againſt the Peace, or to the manifeſt terrour of the People; if they only

only meet to such a purpose or intent, although they shall after depart of their own accord, without acting any thing, yet this is an unlawful Assembly, because of their intention at the first. *Bro. Tit. Riot.* 4, 5. *Cromp.* 68. *Co.* 3 *Part. Inst. fol.* 176. *Dalt. J. P. chap.* 85. *fol.* 217. *Termes de Ley, verb. Rout. Lamb.* 179, 181.

If after such meeting, as aforesaid, they shall ride, go, or move forward towards the execution of such Act, whether they put their intended purpose in execution or not, this is a Rout. *Bro. Riot.* 4. *Co.* 3. *Part. Inst. fol.* 176. *Termes de Ley, verb Rout. Dalt. J. P. chap.* 8. *fol.* 217.

And if they do any such thing indeed, then it is a Riot. *Co.* 3. *Part. Inst. fol.* 176. *Termes de Ley. verb. Riot: Dalt. J. P. ch.* 85. *fol.* 217. *Bro. Riot.* 4, & 5.

CHAP.

CHAP. XXXIII.

The Constables Office about Rogues and Vagabonds.

THe Constable, Headborough, or Tythingman, assisted by the Minister, and one other of the Parish, is to see (or do it himself) Rogues, and Vagabonds, which shall be taken begging, stripped naked from the middle upwards, and openly whipped till their body be bloody, and then forthwith to be sent away from Constable to Constable the next straight way to the place of their birth; and if that cannot be known, then to the place where they last dwelt by the space of one whole year, before such punishment; and if that cannot be known, then to the Town through which they last passed unpunished: And when they come there, if it cannot be discovered where they were born, or last dwelt, as aforesaid, then are they by that Constable to be conveyed to the House of Correction, or Common Gaol of the County, to be imployed in work, or placed

placed in some service, and so to continue by the space of one year; or in case they be not able in body, that Town is to keep them, till they may be placed in some Almshouse within the same County. 39 *Eliz. ch.* 4. *Wing. Stat. Tit. Vagabonds. Resoluc. Judges. Sect.* 7. 14. *Bolstr.* 2 *Part. Rep. fol.* 258.

After such Whipping, the Vagabond is to have a Testimonial under the Hand and Seal of the Constable, Tythingman *&c.* and the Minister testifying the day and place of his punishment, the place to which he is to be conveyed, and the time limited for his passage thither; which time, if by his own Default he exceeds: he shall from time to time incur the like punishment, till he arrive at the place limited; the substance of the Testimonial is to be Registred by the Minister in a Book, which he is to keep for that purpose, in pain of Five shillings; See the Form of the Testimonial, *pag.* 104. *Wingate's Stat. Tit. Vagabonds. Dalton's J. P. fol.* 129. *Poulton Vagab.* 3.

If any Constable, Headborough or Tythingman, be found negligent in the due Execution of the Act of the 39 *Eliz.*

Eliz. aforesaid, he forfeits Ten shillings for every Default, and all such persons as shall in any wise disturb or hinder the execution of the Law, or any part thereof, concerning the punishment of Rogues, forfeits Five pounds, and to be bound to the good behaviour; and observe therefore that by the Resolution of the Judges, *Sect.* 13, 14. where a Rogue is to be conveyed from Constable to Constable the next straight way to the place of his birth, in such case, if the Constable of any Parish will not receive such Rogue, to convey him to the next Constable, *&c.* this is a forfeiture of Five pounds in such Officer that shall not receive the party, to convey him or her, and he may be bound, as aforesaid, to the good behaviour, and if he receive him, and do not convey him to the next Constable, it seems he incurs the like penalty. 39 *Eliz. ch.* 4. *Poul. Vag.* 5. *&* 11. *Dalt. J. P. ch.* 47. *fol.* 128. *&* *Resol. Judges, Sect.* 13, 14.

Ever person shall apprehend or cause to be apprehended, such Rogues as he shall see or know to resort to his house to beg, or receive any Alms, and

and him or them ſhall carry, or cauſe to be carryed to the next Conſtable, or elſe ſhall forfeit for every ſuch default ten ſhillings; and the Conſtable is to whip and convey ſuch Rogues, as afore directed, on pain of Twenty ſhillings. 1 *Jac. chap.* 7. *Poul. Vagab.* 5. *Dalt. J. P. ch.* 47. *fol.* 128. *Wingate's Stat. Tit. Vagabond.*

Two Juſtices of the Peace (*quor. un.*) by Warrant under their Hands and Seals, may cauſe to be levyed by diſtreſs and Sale of the Offender's Goods all the Fines and Forfeitures aforeſaid, appointed by the *Stat.* 39 *Eliz. chap.* 4. & 1 *Jac. ch.* 7. after conviction of the party, which muſt be either by confeſſion or proof of two ſufficient Witneſſes before the ſaid Juſtices; *Poul. Vagab.* 1. 39 *Eliz. ch.* 4. 1 *Jac. ch.* 7. *Dalt. J. P. ch.* 47. *fol.* 149. *Wingate's Stat. Tit. Vagabond.*

If the Conſtables or Tythingmen neglect to make privy ſearch for Rogues upon Warrant from the Juſtices of Peace, and to appear before the Juſtices, at their meeting appointed for that purpoſe, to give an Account upon Oath in Writing under

the Minister's hand testifying what Rogues, *&c.* they have taken in that search, or since the last Meeting, and how many have been punished, or otherwise sent to the House of Correction, or if they neglect safely to convey such to the House of Correction, as by the said Justices Warrant are to be committed thither, they are to incur what Fine the Justices please to set upon them, so that it exceed not Forty shillings. 7 *Jac. ch.*4. *Wingate's Stat. Tit. Vagabond.*

Any Justice of Peace may Reward any person or persons who shall apprehend and bring before him any Rogue, Vagabond, or Sturdy Beggar, by granting to such person a Warrant under his Hand and Seal to the Constable, or Tythingman of the place, through which the Rogue, *&c.* did pass unapprehended, ordering the Constable, *&c.* to give such person two shillings for every Rogue so taken. And if such Constable, *&c.* refuse or neglect to pay the same, the Justices of the Peace may proceed against such Constable, *&c.* according to the Statute of the 1 *Jac. ch.* 7. before mentioned

ned, and then compel him to pay ſo much money as he hath forfeited by the ſaid Statutes, and allow the ſaid Two ſhillings out of the ſaid forfeiture to the ſaid perſon, and alſo reaſonable allowance for loſs of time, as they ſhall think fit. 14 *Car.* 2. *chap.* 12.

And if any perſon ſhall apprehend any Rogue, *&c.* at the Confines of any County, which paſſed through any Pariſh of another County unapprehended, then the perſon ſo apprehending ſuch Rogue muſt carry him to ſome Juſtice of Peace of that County, through which he paſſed unapprehended (who upon a Certificate under the hand of ſome Juſtice of the Peace of the County where ſuch Rogue was apprehended) is to grant his Order or Warrant under his Hand and Seal to the Conſtable, *&c.* to pay Two ſhillings, as aforeſaid, which, if he refuſe or neglect, then the Juſtice of Peace is to proceed againſt ſuch Conſtable, *&c.* and cauſe him to pay Ten ſhillings to the party, or ſo much thereof, for loſs of time, as the Juſtice ſhall think fit. 14 *Car.* 2. *chap.* 12.

Whereas Conſtables, Tything-men,

&c. are at great charges in Relieving, conveying with Paſſes, and carrying Rogues, *&c.* to the Houſes of Correction, *&c.* It is enacted that all Conſtables, Tythingmen, *&c.* ſo out of Purſe, together with the Churchwardens and Overſeers of the Poor, and other Inhabitants of the Pariſh, may make a Rate, and Tax all the inhabitants of the Pariſh, chargeable by the 43 *Eliz.* which Rate muſt be confirmed by two Juſtices of the Peace under their Hands and Seals; and if any perſon refuſe to pay his part thereof, then by Warrant from two Juſtices the Conſtable may levy the ſame upon the parties Goods, that refuſeth, rendring the overplus to the owner, if any be. 14 *Car.* 2. *ch.* 12.

Note, that all theſe perſons following, being above the Age of ſeven years, Man or Woman, Sole or Covert, that wander from their uſuall place of abode, abroad every where begging; or if they do not beg, yet if they wander and loyter abroad without a lawful Paſport, and give no good reaſon for their Travail, are accounted Rogues: All Scholars and Seafaring

ring men which beg, wandring perſons, that uſe unlawful Games, ſubtile Craft, or Plays, or pretending themſelves to have skill in Phyſiognomy, Palmeſtry, or the like, or to be Fortune-tellers; all Proctors, Patent gatherers (except for Fire) Collectors for Gaols, Priſoners, or Hoſpitals, wandring abroad, Fencers, Bearwards, Common players of Enterludes, and Fidlers or Minſtrels wandring abroad, all Juglers, Tinkers, Pedlers, and petty Chapmen, and Glaſs-men wandring abroad, eſpecially if they be not well known, or have not a ſufficient Teſtimonial; all counterfeit *Egyptians* not being Felons; all perſons delivered out of Gaols, which beg for their Fees, or otherwiſe do travel begging, ſuch as go to or from the Bathes and do not purſue their Licence, Souldiers and Mariners that beg, and counterfeit a Certificate of their Commanders; All Labourers which wander abroad out of the Pariſh, and refuſe to work for wages reaſonably taxed, having no living otherwiſe to maintain themſelves; and ſuch as go with a general Paſport which is not directed from Pariſh to

Pariſh; all theſe are accounted Rogues, Vagabonds, and Sturdy Beggars: And all Servants departing out of their Service) to wit, forth of one City, Town, or Pariſh to another or out of one Hundred or County to ſerve in another) without a Teſtimoniall, or which ſhall be taken with a falſe one, and thoſe that are ſick of the Plague, and wilfully go abroad in company againſt the command of Officers, are to be puniſhed as Vagabonds: but obſerve, that none but the wandring Rogue is to be ſent to the place of his birth, or laſt habitation; for thoſe Poor people which beg in their own Pariſh, without the appointment of the Overſeers, or in the Highwayes, are to be ſent to the Houſe of Correction. 26 *Eliz. ch.* 4 & 17. 43 *Eliz. chap.* 2. 1 *Iac. ch.* 7. 21 *Iac. c.* 28. 7 *Iac. chap.* 24. 5 *Eliz. chap.* 4. *Poult. Vag.* 2, & 7. *Reſol. Iudges*, 13, 15. *Dalt. J. P. ch.* 47. *fol.* 123, 124, 125. & *Cro. 2 Part. Rep. fol.* 577.

Note, That the Wife, and Children under ſeven years of age, being vagrant, muſt go and be placed with the Husband; and if the Husband be dead then

then with the Wife where ſhe was born, or laſt dwelt ; and vagrant Children above ſeven years of Age muſt be ſent to the place of their birth ; and if the vagrant Parents with their Children under ſeven years of Age be placed at the place of the birth of the parents, or at the laſt place of dweling, as the caſe falls out ; if afterwards the Parents, or either of them dye, or run away, yet the Children once ſettled, muſt remain there ſtill, and may not be ſent to the place of their birth, though afterwards they attain to the Age ſeven years ; and the Wife being but a Vagrant Rogue, ought to be ſent to the Husband, though he be but a Servant in another Town ; and the Rogue whoſe place of birth or dwelling cannot be known, having Wife or Children under ſeven years of Age, they muſt go with the Husband to the place where they were laſt ſuffered wilfully to paſs through unpuniſhed ; where the Children muſt be relieved with the work of their Parents, though their Parents be committed to the Houſe of Correction. 39 *El. ch.4. Poult.Vag. 2. Reſoluc. of the Iudges, Sect.4,5. Dalt. J.P. chap. 47.f.125.*

Now the Form of a Teſtimonial, for the conveying a Rogue that hath been baniſhed, is as followeth;

JOhn Roo *a Sturdy Vagrant Beggar (of tall ſtature, gray haired, and blind of the left Eye) aged about fifty years, was this* 2d. *of* February, *in the Twentieth year of the Reign of our moſt gracious Soveraign Lord King* Charles *the Second of* England *&c. openly whipped at* Kirk-Leaventon *in the County of* York, *according to Law, for a wandering Rogue; and is aſſigned to paſs forthwith from Pariſh to Pariſh, by the Officers thereof, the next ſtraight way to* A. *in the County of* Weſtmerland. *whereat he confeſſeth he was born; and he is limited to be at* A. *aforeſaid within Ten dayes now next enſuing at his peril. Given under the Hands and Seals of* J. H. *Miniſter of* Kirk-Leaventon *aforeſaid, and* J. M. *Conſtable there,* Wingate. Stat. Tit.

CHAP.

CHAP. XXXIV.

The Constables Office about Profane Swearing.

IF any persons or persons shall profanely Curse and Swear, for every time so offending they forfeit Twelve pence, the offence to be proved within Twenty dayes after it is committed, by the Oath of two Witnesses, or by confession of the party before any Justice of Peace, or Head Officer of any City or Town Corporate; who thereupon may issue out their Warrant to the Constables, and Churchwardens, and Overseers of the Poor of that Parish where the said offence shall be committed, and the said Constables, *&c.* are to levy the sum and sums of money by distress and sale of the Offenders Goods, rendring the overplus, if any be to the owner, 21 *Jac. chap.* 20. 3 *Car.* 1. *ch.* 4. *Wingate's Stat. Tit. Swearing. Dalt. J. P. ch.* 55. *fol.* 138.

Note, Where no Distress is to be had, the Offender, if above Twelve years of Age, shall by Warrant, as

foresaid, be set in the Stocks Three whole hours; but if the Offender be under the Age of Twelve years, and shall not forthwith pay the said sum of Twelve pence *per* Oath, then he or she is to be whipped by the Constable, or by the Parent, or Master, in the Constables presence. 21 *Jac. chap.* 20. 3 *Car.* 1. *ch.* 4. *Dalt. J. P. chap.* 55. *fol.* 138.

CHAP. XXXV.

The Constables Office about Prophaning the Sabbath.

THe Constable by Warrant from a Justice of the Peace, (or the chief Officer of any City, Borough, or Town Corporate) under their Hands and Seals, against such as use unlawful Games on the Sabbath day, as Bull-baiting, Bear-baiting, Enterludes, or other unlawful Exercises within their own Parish, or out of their own Parish, at any such Sports whatsoever, may levy the Penalty of Three shilling and four pence by Distress and Sale of the Offenders Goods,

Goods, rendring the overplus to the owners; and in default of Diſtreſs, the Conſtable is to ſet the Offenders in the Stocks by the ſpace of Three hours: Note, that the party offending in theſe Games muſt be queſtioned within a Month after the offence committed. 1 *Car.* 1. *ch.* 1. *Dalt. J. P. ch.* 2. *fol.* 63.

If any one on the Sabbath day keep, or be preſent at any Wreſtlings, Shootings, Bowlings, Ringing of Bells for pleaſure, Mask, Wake, Church-Ale, Dancing, Games, Sport, or Paſtime whatſoever, they forfeit Five ſhillings, if he or ſhe be above Fourteen years of Age; and if under that Age, then Twelve pence by him that hath the government of the party, to be levyed by Sale and Diſtreſs by the Conſtable, by Warrant from a Juſtice of Peace, or chief Officer, as aforeſaid; and, for want of Diſtreſs, to be ſet Three hours in the Stocks. And every Carrier going with his Horſes on this day, or Wagoner, Carter or Waynman, going with any Wagon, Cart or Wayn, or Drover with his Cattle, forfeit Twenty ſhillings for every offence, to be levyed alſo by Diſtreſs and Sale of his Goods,

Goods, if he be queſtioned within Six weeks after the offence done; but there muſt be but one Twenty ſhillings forfeiſeited for one Journey, although they paſs through ſeveral Pariſhes, and this Twenty ſhillings that Pariſh ſhall have where the Diſtreſs is firſt taken. 3 *Car.* 1. *ch.* 1. *Dalt. ch.* 50. *fo.* 134.

And if any Butcher by himſelf, or any for him, ſhall kill or ſell any Victuals upon the Lords day, he forfeits Six ſhillings and Eight pence, to be levyed by the Conſtable by Diſtreſs and Sale, as aforeſaid, upon Warrant from a Juſtice of Peace, *&c.* the offence to be queſtioned within Six weeks after it is committed, and the parties to be convicted before any Juſtice of Peace, Mayor, or head Officer, *&c.* upon their own view, proof of Two Witneſſes or more, or the parties own confeſſion; and the Juſtice, Mayor, *&c.* may reward the Informer with a Third part of the penalty. 3 *Car.* 1. *ch.* 1. *Dalton's J. P. ch.* 50. *fol.* 134.

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CHAP. XXXVI.

The Constables Office about Tobacco planting.

ALl Sheriffs, Justices of Peace, Mayors, Bayliffs, Constables, and every of them, upon Information or Complaint made to them, or any of them, by any of the Officers of the Customes, or by any other person or persons whatsoever, that there is any Tobacco set, sown, planted, or growing within their Jurisdiction or Precincts (except such as is growing in any Physick Garden of either University, or in any other private Garden, where the quantity of Ground planted exceeds not one half of one Pole, in any one place or Garden) they are within Ten days after such information or Complaint to cause to be burnt, plucked up, consumed, or utterly destroyed all such Tobacco so set, sown, planted, or growing. 12 *Car.* 2. *ch.* 34.

And if any person or persons shall resist, or make forceable opposition against any person or persons in the due execuri-

execution of this Office, as aforesaid, every person or persons for every such offence, shall forfeit the sum of Five pounds, to be recovered in any Court of Record; and be also committed to the common Gaol of the County where the offence was committed, there to remain without Bail or Mainprize, untill he, she, or they, do enter into Recognizance to his Majesty, his Heirs and Successors, with Two sufficient sureties in Ten pounds penalty, not to do or commit the like offence again, 12 *Car.* 2. *ch.* 34. 15 *Car.* 2. *ch.* 7.

CHAP. XXXVII.

The Constables Office about Weights and Measures.

EVery City, Borough, and Market Town within *England*, ought to have common Weights and Measures sealed, at which the Inhabitants themselves may freely weigh; and all Forreigners must pay for every Draught under forty pounds, a Farthing; for a Draught between Forty and an Hundred,

dred, muſt pay an half Peny; and for a Draught betwixt an Hundred and a Thouſand, they muſt pay a penny; wherewith the Weights are to be maintained, and the Officers which attend that Service, are to be rewarded at the diſcretion of the ſaid Inhabitants. 8 *H.* 6. *chap.* 5. *Wingate's Stat. Tit. Weights and Meaſures.*

Every City which wants ſuch Weights and Meaſures forfeits Ten pounds to the King, every Borough Five pounds, and every Market Town Forty ſhillings; and the chief Officers of ſuch places whether they be Conſtables, Bailiffs or other, are upon Requeſt to them made, to mark and ſign ſuch Weights and Meaſures to any of the King's Subjects, taking for the marking of every Buſhel one Peny; and none ought to ſell with any other Weights and Meaſures, but ſuch as are ſo marked. 8 *H* 6. *chap.* 5. 11 *H.* 7. *chap.* 4. *Wingate's Stat. Tit. Weights and Meaſures.*

Mayors and chief Officers, *&c.* are at leaſt once every year to view all Meaſures and Weights within their Juriſdiction, and break or burn them which

which they find defective, and also may inflict punishment upon the Offenders; for the first offence Six shillings Eight pence, for the second Thirteen shillings and Four pence, and for the third offence Twenty shillings; and besides, may adjudge them to the Pillory. *Wingate's Stat. Tit. Weights and Measures.* 11 *H.* 7. *ch.* 4.

By the *Stat.* 22 *Car.* 2. *ch.* 8. All Constables are impowered to search and examine if any person buy or sell by any other Bushel then *Winchester* Measure, containing Eight Gallons to the Bushel or Strike, and Sealed by the Clerk of the Market; and if any person do not strike the same even with the brim, and any Constable may seize and break such other Measure, and present the Offender at the next private or Quarter Sessions.

CHAP.

CHAP. XXXVIII.

The Conſtables Office about Watches.

THe Conſtables, *&c.* of every Town are to cauſe Night Watch to be kept from *Aſcenſion* till *Michaelmas*, in their Towns which Watch muſt continue from Sun ſet to Sun riſe, and may be by two or four men, according to the greatneſs of the Town. 13 *E.* 1. *ch.* 4. *Dalt. J. P. ch.* 60. *fol.* 140. *Poul. Watch.* 1.

Theſe Watchmen are to apprehend all Strangers that paſs by them in the Night, and muſt examine them; and if they find cauſe of ſuſpicion in them, then they may keep them till the Morning; and if the parties refuſe to obey the Arreſt, then the Watchmen may levy Hue aud Cry for the taking of the ſaid Night-walkers; or the Watchmen may juſtifie the beating of them upon their reſiſtance, and ſet them in the Stocks till the morning, and then if no ſuſpicion be found in the parties, they may let them go quit: but if they find ſuſpicion in them, then the Watchmen may

may deliver them to the Conſtable, who is to convey them to a Juſtice of Peace to be examined, and to be bound over or commited until they be acquitted according to due Form of Law. *Dalt. J. P. ch.* 60. *fol.* 140. *& ch.* 109 *fol.* 296. 5 *E.*3. 14 *H.*7. 5. *a. Lamb. Office Conſt.*

Theſe Watchmen are alſo to apprehend Rogues and Vagabonds. Nightwalkers, Eveſdroppers, Scouts, and ſuch like, and ſuch as go armed, *&c.*

And note, that theſe particulars following have been held for Law concerning Watches.

Firſt, That the Watch muſt be by men of able body, and ſufficiently armed, and that no man is compellable to watch, except he be an Inhabitant within the ſame Town.

Secondly, That ſuch as are Inhabitants within the Town, are not compellable to watch at the will of the Conſtable, but onely when their turn cometh according to the uſe and cuſtom of the place, which moſt commonly is by turn, or houſe.

Thirdly, If a man who is compellable to watch, ſhall contemptuouſly refuſe

to

to watch, upon the command of the Constable; it hath been held by some, that the Constable in such case, *ex Officio*, may set the party in the Stocks for his contempt; but the safest way is for the Constable to present such persons for his default at the Assizes or Sessions of the Peace, or else to complain of him to a Justice of Peace, who may bind the Offender to the good behaviour, and so over to the next Quarter Sessions, *&c. Dalt. J. P. ch. 60. fol. 141.*

CHAP. XXXIX.

The Constables Office about Executing Warrants.

A Justice of Peace may direct his Warrant to the Sheriff, Bayliff, Constable, or other Officer, or to any other indifferent person by Name, though he be no Officer. 14 *H.* 8. 16. *Bro. Peace.* 6. *Dalt. J. P. chap.* 117. *fol.* 332.

A Warrant directed by the Justice of Peace to the Constable, or other sworn Officer, and a Stranger who is no

no Officer, and the Warrant is made to them joyntly and severally, and is delivered to the Stranger who executeth it, this is good enough: and if a Warrant from a Justice of Peace be directed to two men joyntly to Arrest another, yet any one of them may do it alone, *Cromp.* 147. *Dalt. J. P. ch.* 117. *fol.* 132.

If a Justice of Peace direct his Warrant to the Sheriff, he may by word command his Undersheriff, Bayliff, or other known and sworn Officer, to serve it without any Precept to them in writing, and they upon such Commandment of the Sheriff may lawfully do it. *Lamb.* 91. *Bro. fx. Impris.* 43. & *Trespass* 339. *Dalt. J. P. ch.* 117. *fol.* 332.

But if the Sheriff in such case do command a Stranger, who is neither his Servant nor Sworn Officer, then he must do it by Precept in writing, or otherwise an Action of false Imprisonment lies for the Arrest: *Dalt. J. P. ch.* 117. *fol* 332.

Where a Warrant is directed by a Justice of Peace to the Sheriffs Bayliff, or his Servant, or to the Constable, or other private person to Arrest one, such

such person cannot command another to do it, neither by word nor writing, but must do it himself, *Co. 9. Lib. Rep. fo.* 69. 14 *H. 7. 9. b.* 20 *H.* 7. 13. 21 *H.* 7. 14 *Dalt. J. P. ch.* 117. *fol.* 332.

The Officer to whom any Warrant shall be directed, ought with all speed and secrecy to seek and find out the party, and then to execute his said Warrant. *Dalt. J. P. ch.* 117. *fo.* 332.

A sworn and known Officer (be he Sheriff, Undersheriff, Bayliff, or Constable) needs not to shew his Warrant to a man when he comes to serve it upon him, although he demand it; but he who is no sworn Officer ought to shew his Warrant upon demand, or otherwise the party may make resistance and not obey him; and a sworn Officer also upon the Arrest, though he will not shew his Warrant, yet he ought to acquaint the party with the contents thereof. *M.* 8 *E.* 4. *fo.* 14. *a. Bro. fx. Impr.* 23. *Dalt. J. P. ch.* 117. *fo.* 332, 333. *Co.* 6. *Lib. Rep.* 54. & 9. *Lib. fo.* 68.

Note, that an Officer giveth sufficient notice what he is, when he saith to the party, *I Arrest you in the King's Name, &c.* and in such case the party at his

his peril ought to obey him, though he knoweth him not to be an Officer; and if he have no lawful Warrant, the party grieved may have his Action of falſe Impriſonment againſt him. *Co. 9. Lib' Rep. fo. 69. Dal. J. P. chap. 117. fo. 333.*

If a Conſtable or other Officer Arreſt a man for the Peace, or the like, before that he have a Warrant, and then afterwards doth procure a Warrant (or a Warrant cometh after to him) to Arreſt the party for the ſame cauſe, yet the firſt Arreſt was wrongful, and the Officer is ſubject to an Action of falſe Impriſonment. *Dyer fo. 244. Lamb. 93. Dalt. J. P. chap. 117. fo. 333.*

Where a Warrant is granted out againſt *J. N.* the Son of *T. P.* and the Conſtable or other Officer takes *J. N.* the Son of *L. P.* although he in truth be the ſame perſon that offended, and againſt whom the complaint was made, yet this Arreſt is tortuous, and the Officer liable to an Action of falſe Impriſonment. *10 E. 4. fo. 12. Bro. fx. Imp. 38. Dalt. J. P. chap. 117. fo. 333.*

But it is ſaid by ſome, that where two or three are known by the Name of *J. R.* of *K.* Yeoman, and upon a War-

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rant or other Proceſs granted out againſt one of them, another of them is Arreſted, in ſuch caſe an Action of falſe Impriſonment will not lye againſt the Officer, *tamen Quære* hereof. 11 *H.* 4. *fo.* 90. 5 *E.* 4. *fo.* 51. *Dalt. J. P. ch.* 117. *fol.* 333.

Where an Officer hath received a Warrant, he is bound to purſue the effects of his Warrant in every behalf; or otherwiſe his Warrant will not excuſe him of that which he hath done: *Dalt. J. P. ch.* 117. *fo.* 333.

The Conſtable, or other Officer, upon a Warrant from a Juſtice of Peace for Treaſon, Felony, the Peace, or good behaviour, or in any other caſe where the King is party, may by force of ſuch Warrant break open a mans houſe to Arreſt the Offender; but in ſuch caſe he ought firſt to ſignifie the cauſe of his coming, and require them to open the Doors, before he break them open. *Co.* 5. *Lib. Rep. fo.* 9. 7 *E.* 3. 19. *Cromp.* 171, *Dalt. J. P. ch.* 78. *fo.* 204, 205 *& ch.* 117. *fol.* 333.

If a Conſtable or other Officer, hath Arreſted a man by vertue of his Warrant which he hath from a Juſtice of Peace,

Peace, and then taketh his promiſe that he will come to him ſuch a day to go to the Juſtice with him, according to his Warrant (and ſo he letteth the party go) who comes not again at the day appointed, in this caſe the Officer cannot take him again upon the ſame Warrant, becauſe he was ſuffered to go by the conſent of the Officer; but if the party Arreſted had eſcaped of his own wrong without the conſent of the Officer, in ſuch caſe upon freſh ſuit he may take him again and again, ſo often as he eſcapeth, although he were out of view, or that he doth fly into another Town or County; and it is ſaid that the Officer in ſuch caſe, though the party be taken in another County after the Eſcape, yet he may bring the party before the Juſtice on whoſe Warrant he was firſt Arreſted. *Crom.* 214. *a.* 148, 172, & 173. *Dalt. ſ. P. ch.* 117. *fol.* 333. & *ch.* 118. *fo.* 340.

By the opinion of the Court of the 14 *H.* 8. it was held there that a Juſtice of Peace cannot make a Warrant to arreſt a Felon, unleſs he be indicted of Felony (or that the Juſtice himſelf hath a ſuſpicion of the Felon.) But if the

the Conſtable, or other Officer, ſhall ſerve ſuch a Warrant, he may juſtifie the ſame, though the Juſtice did erre in awarding thereof, 24 *E.* 3. 9, 14 *H.* 8. 16 *Bro. Peace.* 6. & *fx. Impr.* 8. & 9. *Dalt. J. P. ch.* 117. *fo.* 331.

Note, That where a Juſtice of Peace doth make a Warrant for a matter wherein he hath Juriſdiction, though it be beyond his Authority, yet it is not diſputable by the Conſtable, or other ſuch Officer, but muſt be obeyed and executed by them; as if the Juſtice ſhall make a Warrant to Arreſt one for the peace, or good behaviour, *&c.* without any cauſe, the Officer ſhall not be puniſhed for executing the Warrant. But if a Juſtice of Peace ſhall make his Warrant to do a thing out of his Juriſdiction, or in a Cauſe wherein the Juſtice is not Judge, then if the Officer ſhall execute ſuch a Warrant he is puniſhable for it; for the Officer is not bound to obey him who is not Judge of the Cauſe, no more than he is bound to obey a meer Stranger; and ſo note that the Officer is bound at his peril to take notice of the Authority and

Jurisdiction of the Judge, See *Plo. Com.* 394. *b.* 22. *Ass. fo.* 64. 14 *H.* 8. 16. *Lamb.* 67. 94. *Co.* 10. *Lib. Rep. fo.* 76. *Cromp.* 74. *Bro. fx. Impr.* 8. *Dalt. J. P. ch.* 117. *fo.* 334.

If any shall abuse the Justice of Peace his Warrant, by casting it into the dirt, treading it under feet, burning it, *&c.* for such contempt the party may be bound to his good behaviour, and may also be indicted and fined for the same, for it is the Kings Process, *Cromp.* 149. *Dalt. J. P. ch.* 117. *fo.* 334.

Where Hue and cry either by the Common Law, or by force of any Statute is levy'd upon any person, the Arrest of such person is lawful, although the cause of the Hue and Cry be Feigned; and if the cause be Feigned, he that levies the same shall also be Arrested, and shall be Fined and Imprisoned; but common Fame and voice is not sufficient to Arrest a man in case of Felony, unless a Felony be done indeed. 29 *E.* 3. 9. 38 *E.* 3 6. *Co.* 3 *part Inst fo.* 118. 21 *H.* 7. 28. *a.*

FINIS.

Conductor Generalis.

A GUIDE FOR

Churchwardens, Overseers of the Poor, Surveyors of the High-ways, Treasurers of the County Stock, Masters of the House of Correction, Bayliffs of Mannors, Toll-Takers in Fairs, &c.

LONDON,
Printed in the Year, 1674.

To all Churchwardens, Overseers, &c.

Gentlemen,

THese *following Offices, as well as that of the Constable, have been touched also by Mr.* Lambert, *and Mr.* Sheppard: *But, since the one writ, there have been many hundred new Statute-Laws: And the other, writing in the late times of Rebellion, hath moulded his work suitable to the Manners then in fashion, and many of the Rules laid down by Master* Sheppard *in these several Offices, which thwarted the Laws of the Kingdom, and Priviledges of the Church, are now out of doors: I have therefore (for the ease and satisfaction of those who desire to be put in the right Way and sure Road in the executing of these several Offices) collected and*

published this small Treatise, briefly laying down the Authority and Duty of Churchwardens, Overseers, &c. in their several Offices. The desire of praise could not carry me aloft, who want wings for it; but the main thing, here aimed at, is the good of my Country-men, and I hope to reap the fruit of my labour in it, that is, your kind acceptance, Dear Friends: which if I may obtain, it is all that is desired by him who is, and shall be

Yours

Ready to serve you,

George Meriton.

A

A GUIDE FOR CHURCHWARDENS.

CHAP. I.

The Antiquity of the Churchwardens Office, and how they are to be chosen.

1. IT is said by some Historians, that *Dyonisius* in the year of our Lord 267. divided both in *Rome* and other places, Churches, Church-yards, and Parishes to Curates, and Dioceses to Bishops, and this was about 87 years after *Britain* had received the Christian Faith: For though Historians do not all agree when the Christian Faith was first

planted here, yet it is thought by most of them to be in the Reign of King *Lucius*, about the year of our Lord 180. but how long after it was before these Officers called Churchwardens were appointed, it cannot certainly be known; but Mr. *Lambert* and other Authors do agree, that they are very ancient Officers and by the ancient common Law they were, and are still to take care, see to, and preserve the Goods of the Church, *viz.* the Church Books, Communion Cups, *&c.* and other decent Ornaments and Furniture of the Church which they do find there at their coming into their Office.

2. As to the choice of these Officers it is appointed by the Book of Canons printed in the first year of King *James*, *Anno Dom.* 1564. That all Churchwardens, Questmen, Sidemen, or Assistants in every Parish shall be chosen by the joynt consent of the Minister and the Parishioners, if it may be: But if they cannot agree upon such a choyce, then the Minister shall choose one, and the Parishioners another; and without such a joynt or several choyce, none shall take upon them

them to be Churchwardens, neither ſhall they continue any longer than one year in that Office, except perhaps they be choſen again in like manner; and theſe Officers are to be yearly choſen in *Eaſter* week. *Can.* 89,90.

But note, where there is an antient cuſtom in any Pariſh for the choice of Churchwardens contrary to this Canon, in ſuch caſe the cuſtom is to be obſerv'd before the Canon, as appears by ſeveral Caſes hereafter mentioned.

4. If the Pariſhioners of a Pariſh have uſed time out of mind, *&c.* to elect one Churchwarden, and the Vicar another, and afterwards a Canon is made that the Vicar ſhall elect two, and he doth ſo accordingly, and the Pariſhioners elect one according to their cuſtom, and the Ordinary diſallows him, and eſtabliſheth the other two elected by the Vicar; in this caſe a Prohibition ſhall be granted. *P.* 5. *Jac.* B. R. *the Pariſhioners caſe of Rovenden in Kent. Rolls caſes.* 2 *part. fo.* 287.

5. A Prohibition was granted againſt a Churchwarden choſen by the Parſon of Saint *Magnus* nigh *London-bridge*, by force of a Canon, upon a

surmise that the Parish hath a custom to chuse two Churchwardens. *Tr.* 7. *Ca.* 1. *B.R. bet. Shirlye and Brown, Rot.* 1391. *Rolls Cases*, 2 *Part. fo.* 287. The like against a Churchwarden chosen by the Parson of *Alhallows, London. P.* 17 *Jac.* B.R. *Warners* case, *& P.* 5 *Jac.* the Parishioners of *Walbrooks* case in *London*, *Cro.* 2 *Part. Rep.* The like against a Churchwarden chosen by the Parson of St. *Thomas* in *London*, *P.* 15 *Car.* 1. B.R. *Evelins* case, *Cro.* 3. *part.* and the like granted between *Draper* and *Stone* for *Abchurch* in *London*, *P.* 4 *Car.* B.R. *Rot.* 420. *Rolls Cases*, 2 *part. fo.* 287.

6. An Attorney cannot be made a Churchwarden: if he be put in, and refuse, and so be sued in the Spiritual Court, he may have a Prohibition; *P.* 14 *Car.* 1 B.R. *Wilsons case, & Tr.* 15 *Car.* 1. B.R. *Barkers case, Rolls cases*, 2. *part. fo.* 272.

7. By the *Stat.* 15 *Car.* 2. All Vestry men, or those who are Members of any Vestry within any Parish in the Cities of *London* and *Westminster*, Borough of *Southmark*, and Weekly Bills of Mortality, and in all other Cities, Boroughs and Towns Corporate, where

where Select Vestories are used in the Kingdom of *England*, are within one month after their Election, before the respective Archbishop, Bishop, or Ordinary, Vicar General or Chancellour of the Diocese to make and subscribe as followeth.

I A. B. *do declare that it is not lawful upon any pretence whatsoever, to take up Arms against his Majesty. And that I do abhor the traiterous position of taking Arms by his Majesties Authority against his Person, or against those that are commissionated by him. And that I will conform to the Liturgy of the Church of* England, *as it is now established. And I do declare, that I hold there lies no obligation on me, or on any other person from the Oath commonly called* The Solemn League and Covenant, *to endeavour any Change or alteration of Government either in Church or State; And that the same was in it self an unlawful Oath and imposed upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom.* 15 *Car.* 2. *ch.* 5.

8. He that refuses this Subscription within the time aforesaid, is *ipso facto* deprived of such his place of Vestry-

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man, and a new one to be choſen; and if ſuch new one refuſe alſo, or if ſuch perſon who ſhall have right of Election, ſhall not proceed to Election within one Month after ſuch vacancy, then the reſpective Archbiſhop, Biſhop or Ordinary of the Dioceſs may under his Hand and Seal elect and nominate a diſcreet perſon of the reſpective Pariſh, who after Subſcription within the time aforeſaid is to ſtand, 15 *Car.* 2 *ch.* 5. This Act is to continue till the end of the firſt Seſſion of the next Parliament.

CHAP. II.

The Churchwardens Office about Prophanation of the Sabbath, and of the Church.

9. THeſe Officers are diligently to ſee that all the Pariſhioners duly reſort to their Pariſh Church upon all Sundays and Holydays, and there continue the whole time of Divine Service, and none to walk or ſtand idle, or talking in the Church, Church-yard, or Church-porch during that time; and all

all such as shall be found slack or negligent in resorting to the Church (having no great or urgent cause of absence) they shall earnestly call upon them, and after due admonition, if they amend not, they must present their Names to the Ordinary of the place. 56 *E. 6. ch.* 1. *Canon* 19. 90, 111.

10. If the Churchwardens find any person absent from the Church upon Sundays or Holy days, in the time of Divine Service, Preaching, or other holy Exercise, such person is to pay 12 *d.* to the use of the poor; and this extends as well to all Women Covert, as to all other persons: or, the Churchwardens, if they please, may present such person in the Ecclesiastical Court. But note, that none are to be punished twice for one offence, so that they must not pay their twelve pence, and be presented too, 1 *Eliz. ch.* 1. *Hobbart's Rep. fol.* 97.

11. And if they find any Tipling in an Inn or Alehouse, *&c.* then, besides the twelve pence for being absent from the Church, as aforesaid, they forfeit three shillings four pence more for Tipling, and the Master of the House

House Ten shillings for suffering them to Tipple; which forfeitures are to go to the use of the poor. 4 *Jac. ch.* 5.

12. The Churchwardens or Questmen are to suffer no Plays, Feasts, Banquets, Suppers, Church-Ales, Drinkings, Temporal Courts or Leets, Lay Juries, Musters, or any other profane usage to be kept in the Church, Chappel, or Churchyard; neither the Bells to be rung superstitiously upon Holy days, or Eves abrogated by the Book of Common Prayer, nor at any other times, without good cause to be allowed by their Minister of the place and by themselves. *Canon.* 88.

13. Neither the Minister, Churchwardens, nor any other Officers of the Church, shall suffer any man to preach within their Churches or Chappels, but such as by shewing their Licence to preach shall appear unto them to be sufficiently Authorized thereunto: And the Churchwardens or Questmen are also to see that in every meeting of the Congregation, the Peace be well keep, and that all persons Excommunicated, and so denounced be kept out of the Church, *Canon.* 30, 85.

CHAP.

CHAP. II.

Some few Cases concerning Actions for and against Churchwardens.

14. NOte, that the Law doth make of these Officers a kind of Corporation, *viz.* Persons enabled by that name to take movable Goods or Chattels, and to sue and to be sued at Law concerning such Goods for the use and profit of their Parish, for the property of the Goods of the Church is in them, and they are by that name enabled to take them for the use and profit of the Parish: and therefore a man may well in his life-time, or by his last Will, give or grant Money, or other movable Goods to the Churchwardens, or Parishioners of such a Parish, for the Reparations of the Church, or for buying of Books, Communion Cups, Linnen Cloths, or other decent Ornaments or Furniture for the Church. 12 *H.* 7. *fo.* 27. *Finches Law. Lib.* 2. *chap.* 17. *pag.* 178. *Kitchin, p.* 278. *a.*

15. But they cannot take an Estate of Lands

Lands to them by Name of Church-wardens only, for if a Feoffment be made to the use of the Churchwardens of *D.* this is a void use, for they have no capacity to take such Purchase. *Finch lib. 2. ch. 17. pag. 179. Rolls cases, 1 part fo. 393.*

16. Neither can they prescribe to have Lands to them and their Successors; for they are no Corporation to have Lands, but for Goods for the Church only. *P. 37 El. C. B. Longley & Meredines case. Rolls cases, 1 part fol. 393.*

17. If a Man buy a Bell, and hang it up in the Steeple, or make a Pew and set it up in the Church, though he make neither words nor writing hereof, yet by this the Bell and Pew are so dedicated to the Church, that the party that did ow them, can never have them again; for, if they should come to remove them, the Churchwardens might sue them for it. *8 H. 7. 12. 10 H. 4. fol. 9. Kitchin. pag. 277. a.*

18. They can have no Action at common Law to recover any Goods of which they never had the possession: But if the Churchwardens be once possessed

poſſeſſed of any Goods, or Ornaments belonging to the Church, and afterwards the ſame things are taken from them, then they have the ſame remedy for the things, as other men have for the Goods taken from them: And therefore, if ſuch Goods be ſtoln, they may have an appeal of Robbery, and if they be otherwiſe taken away or abuſed; as if a Bell be broken, or the like, the Churchwardens may have an Action againſt him that doth it: and in this Action they recover Damages to the uſe of of the Pariſh, and not to their own uſe. *Tr.* 8 *E.* 4 *fo.* 6. *b.* 37 *H.* 6. 32. *Finch. Lib.* 2. *chap.* 17. *pag.* 178. 179. *Abr. Daſſ. fol.* 76. *Kitchin. pag.* 277, *b.* & 278. *a.*

19. And it ſeems alſo, that the party that doth ſteal or take away any Goods belonging to the Church, may be puniſhed for it as for a ſacrilegious offence: And obſerve, that if the Churchwardens from whom the Goods were taken be out of their Office, their Succeſſors, as it ſeems, may ſue for, or recover the ſame, or Damages for them to the uſe of the Pariſh. *Vide. M.* 31 & 32 *El. B. R. Hadman*

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& Kingwoods Case. Cro. Rep. 3. part.

20. But note, That the Churchwardens have no such property in the Goods of their Church, as thereby to have power to give, sell, release, hurt or impair them, without the assent of the Sidemen or Vestry. *Vide* 38 *El. Methold and Winnes Case. Rolls Cases, 1 part fo.* 393. and see *Hill.* 7 *Jac. B. R. in Starkie and Bartons Case. Cro. Rep. 2. part & vide* 13 *H.* 7, 9.

21. If the Churchwardens shall give or impair the Goods in their custody, the Parishioners may choose new ones, who may have an Account against their predecessors. 8 *E.* 4. *fo.* 6. *b. Finch. Lib.* 2. *ch.* 179.

22. If the Organs be taken out of the Church, the Churchwardens may have an Action of Trespass for the same, for the Organs belong to the Parishioners, and not to the Parson; and therefore the Parson cannot sue such party in the Ecclesiastical Court that took them. *Tr.* 12 *Jac. B. R. per Curiam. Rolls Cases, 1 part. fo.* 393.

23. But if the Walls, Windows, or Doors of the Church be broken down, or the Trees in the Churchyard be cut down,

down or the Graſs thereof be eaten up, the Parſon or Vicar, and not the Churchwardens ſhall have an Action for it, for they are a Corporation onely as to movable Goods, and ſee 8 *H.* 6. *fo.* 9. where the Parſon brought an Action of Treſpaſs for breaking and entring into his houſe and cloſe, which was the Church and the Church-yard. 10 *H.* 4. *fo.* 9. 21 *H.* 7. *fo.* 21. *and Parſon's Law*, *p.* 191.

24. The Churchwardens by the aſſent and agreement of the Pariſhioners, may take a ruinous Bell, and deliver it to a Bell-founder, and agree with him that he ſhall have four pounds for caſting it, and that he ſhall retain the ſame till the four pounds be paid: and ſuch Agreement of the Pariſhioners ſhall excuſe the Churchwardens in a Writ of Account brought againſt them by their Succeſſors Churchwardens. *M.* 37, 38 *El. B.R. Methold & Winnes Caſe. Rolls Caſes.* 1 *part. fo.* 393.

25. If a Preſentment be made by the Churchwardens in the Eccleſiaſtical Court, That *I. S.* one of the Pariſhioners is a Railer and a Sower of Diſcord amongſt his Neighbours, a Prohibition

hibition lies in such case; for this belongs to the Leet, and not to the Spiritual Court, unless such Railing were in the Church, or such like place. *M.* 16 *Jac. C. B. Rot.* 716. *Smith & Pannels case. Hobarts Rep. fol.* 246. *Rolls Cases*, 2 *part. fo.* 286.

26. If the Churchwarden of a Church sue in the Ecclesiastical Court for a way to the Church, which they claim to belong to all the Parishioners by prescription, in such case a prohibition will be granted, for this is a temporal cause. *P.* 16 *Jac. B. R.* between the Churchwardens of *Bythorn* and *Bow*. *Rolls Cases*, 2 *part. fo.* 287.

27. If the Churchwardens of *C.* sue in the Ecclesiastical Court *I. S.* for that he, and all those whose Estate he hath in such an House, *&c.* at the perambulation of the Parishioners of the Parish, did use to find a refreshing for them (to wit) Bread and Ale, and suffer them to rest there; here a Prohibition shall be granted; for that they claim it in nature of a Corrody; and, if that should be suffered, a great inconvenience would ensue, *M.* 13 *Jac.* B. R. The Churchwardens of *Us-*

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fington's case in *Barkshire*, *Hill.* 15 *Car.* 1. B. R. The like Prohibition prayed in one *Lock's* case, which was referred to Justice *Jones*. *Rolls cases*, 2 *part. fo.*287. The like Prohibition granted in one *Reynolds* case. *Mores Rep. fo.*——

28. If the Churchwardens of a Church sue in the Court Christian *I. S.* suppoſing by their Libel, that he and all those who had an estate in certain Lands adjoyning to the Church-yard, have used time out mind to repair so much of the Fences of the Church-yard, which were next adjoyning to the said Land: in this Case a Prohibition will be granted; for this ought to be tryed at the Common Law, in so much as that it doth charge a Temporal Inheritance; *M.* 14 *Car.* 1. B. R. the Churchwardens of *Claydon* and *Dunumbs* case, *Rolls* cases, 2 *part. fo.* 287.

CHAP

CHAP. III.

The Churchwardens Office about disposing of Seats in their Church.

29. THese Officers are to look to the repair of the Seats in the Church, but the disposing of the Seats in the body of the Church, belongs of common Right to the Ordinary of the Dioceſs, ſo that he may place and diſplace whom he pleaſeth, except in ſome caſes. *Rolls Caſes, 2 part. fo.* 288.

30. For if a man and his Anceſtors, and all thoſe whoſe Eſtate he hath in a certain Meſſuage, have uſed time out of mind, *&c.* to repair an Iſle of the Church, and ſo fit there and none elſe, the Ordinary in ſuch caſe cannot diſplace him: for if he do, a Prohibition lies, becauſe he hath it by a preſcription for a reaſonable conſideration. *M.* 10 *Jac. C. B. Pimm's* caſe, *per Curiam Rolls Caſes, 2. part. fo.* 288.

31. If a man preſcribe that he and his Anceſtors, and all thoſe whoſe Eſtates they had in a certain Meſſuage did uſe to ſit in a certain Seat in the body

body of the Church, time without mind, *&c.* in conſideration that he and they, *&c.* have uſed time out of mind, to repair the ſaid Seat, if the Ordinary remove him from ſuch Seat, a Prohibition may be brought; for the Ordinary hath no power to diſpoſe of it, for it is a good Preſcription, and by intendment there hath been a good conſideration for the commencement of ſuch Preſcription. *Tr.* 12 *Jac. C. B. Croſſes caſe, M.* 13 *Jac. C. B. Langh & Huſſeys caſe. & M.* 13 *Jac. C. B. Boothby & Daye's caſe, Rolls Caſes,* 2 *Part. fol.* 288.

32. But if a man preſcribe to have a Seat in the body of the Church generally, without conſideration to repair the ſame, then the Ordinary in ſuch caſe may diſplace him, *M.* 11 *Jac. B. R. per Curiam & M.* 13 *Jac. C. B. inter Boothby and Bayly, Hobart's Rep. fo.* 69. *Rolls Caſes,* 2 *part. fo.* 288.

33. The Ordinary hath nothing to do with the Seats in the Chappels belonging to the houſes of Noblemen; *Tr.* 12 *Jac. C. B. Rolls Caſes,* 2 *part. fol.* 288.

34. But if a Layman by the Diſſoluti-

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on of Monasteries hath a Monastery in which there is a Church, parcel of it, and he suffers the Parishioners for a long time to come to it, and do Divine Service, and to use it as their Parish Church, this (unless for all the whole time the party hath used to place men in their Seats himself) shall give Jurisdiction to the Ordinary to order the Seats; for that now in fact is the Parish Church, although that before it were not subject to the Ordinary. *Tr.* 12 *Jac. C. B. Buzard's Case, Rolls* 2 *Part, fol.* 288, 289.

35. If there be a custom in a Parish, that twelve of the Parishioners may choose Churchwardens, which Churchwardens have power by the custom to repair the Seats and make new ones in the body of the Church, and to appoint what persons shall sit in them; and the Churchwardens so elected do erect a new Seat in the body of the Church, and appoint a certain man to sit there, and afterwards the Ordinary decrees that another shall have the Seat; here a Prohibition lies: For, the custom hath fixed the power of disposing the Seats in the Churchwardens, *P.* 16 *Jac.*

Jac. B. R. Brabin and *Tredennick's* caſe for a Seat in *Breock* Church in the County of *Cornwal:* but the reaſon of granting the Prohibition in this caſe, was partly becauſe that the Sentence of the Ordinary was that *Tredennick* ſhould have the Seat to him and his Heirs, and that none ſhould diſturb him in pain of Excommunication, which is unreaſonable, and by ſuch Sentence he and his Heirs ſhould have it, though they were no Inhabitants within the ſame Pariſh. *Rolls caſes. 2. part. fo.* 289.

CHAP. V.

The Churchwardens Office about Reparation and Rates.

36. THeſe Officers are to ſee that the Church and Churchyard be well repaired and kept clean: and they are to provide Books of Common-Prayer, Books of Homilies, a Parchment Book for regiſtring Chriſtnings, Weddings and Burials in, Fonts, Pulpits, Tables, Cheſts for Alms, Communion Cups, Ornaments and other Furniture

niture, and a Cheſt with three Locks and Keys for parting the ſame in: and they are alſo to provide Bread and Wine for the Sacrament according to the number of the Communicants. And for theſe purpoſes they may rate the Pariſh for mony to do it: for which ſee 37 *H.* 6. 30. 11 *H.* 4. 12. 11 *H.* 7. 27. 12 *H.* 7. 10. *F. N. B.* 54. 91. *Canon.* 20. 70. 80, 81, 82, 83, 84, 85.

37. Upon making of Rates for Reparations, *&c.* they are to be done by the Churchwardens with the Aſſent of the greater part of the Pariſhioners, and upon a general warning given before they aſſemble for that purpoſe; and note, that the Eccleſiaſtical Court hath cognizance of the Reparation of the body of the Church. See *Jeoffry's* Caſe. *Co.* 5. *lib. Rep. fo.* 67. *&* *Rolls caſes.* 2. *part. fo.* 289. *M.* 31. 32 *El.* B. R.

38. If a man ſtay and inhabit in one Pariſh, and have Lands in another Pariſh which he occupies there, he may be charged for ſuch Lands for the Reparation of the Church of the Pariſh where the Lands lye: becauſe he may come there when he pleaſes, and he is to be charged in reſpect of the Lands.

Co.

Co. 5. Rep. 4. 67. M. 31, & 32. *El. B. R. Jeoffry's case, & Tr.* 11 *Jac. C. B. Andrews case, per curiam, Rolls cases, 2. part. fo.* 289.

39. But if an Inhabitant of a Parish Lease out his Lands which he hath in another Parish, reserving Rent, then he shall not be charged in the Parish where the Land lies in respect of the Rent, because there is a Parishioner and Inhabitant which may be charged. *Co. 5. Rep. 4. 67. b. M. 5 Jac. C. B. Rolls cases. 2. part. fo.* 289. and see *P.* 41 *El. B. R. Paget and Crumpton's case. Cro. Rep. 1 part, fo.*

40. Neither can a man who Inhabits in one Parish, and occupies Lands in another Parish, be charged in that Parish where the Lands lie for the Ornaments of that Church according to his Land; for the Inhabitants only ought to be rated for them, and so it was adjudged by the Court. *M.* 20. *Jac. B. R. Rolls cases, 2 part. fo.* 291. *Winches Rep. fo. per Yelverton.*

41. Neither can a man be charged in the Parish where he doth inhabit for the Lands which he occupieth in another Parish towards the Reparation of

the Church in the parish where he liveth; because then he might be twice charged, for he may be charged in the parish where the Land lies, as is shewed before, *Sect.* 38. *P.* 16 *Jac. B. R.* Sir *William Butler Vers. Rolls Cases*, 2. *Part. fol.* 289. *Co.* 5. *Rep. fo.* 67.

42. If a petty Chapman take a Stall in the waste of a Mannor for Rent, within the Market for two or three hours every Market day to sell his commodities, the Market being held, there one day every week, but he inhabits in another Parish, here he cannot be rated to the Reparation of the Church for such Stall or Standing. *M.* 20 *Jac. B. R.* between *Holms* and the Churchwardens of *Kettering* in *Northamptonshire*, resolved and a Prohibition granted accordingly. *Rolls Cases*, 2. *part. fo.* 289.

43. If a Citizen of *London* build an house in the parish of *A.* and inhabit there in the time of Sickness in *London*, and hath not any Land in the parish, and afterwards he is assessed 20 *s.* for the Reparation of the Church, where others that have an 100 Acres of Land in the same parish pay but 6*d.* yet notwithstanding

withſtanding no Prohibition lies in this caſe in the Court Chriſtian, becauſe they have the Juriſdiction of the thing; and therefore he muſt be ordered according to their Law. *M.* 5 *Jac. C. B.* Sir *Robert Ley's* caſe. *Rolls Caſes*, 2 *Part. fo.* 289.

44. If there be a Chappel of Eaſe within a Pariſh, and one part of the Pariſh have uſed time out of mind, *&c.* to repair the Chappel themſelves without the reſt of the Pariſhioners, and there to hear Service, and Marry, and all other things, but only that they bury at the Mother Church; here notwithſtanding they ſhall not be diſcharged of the Reparation of the Mother Church, but muſt contribute to it; for the Chappel was ordained onely for their eaſe. *M.* 13 *Jac.* C. B. between the Churchwardens of *Aſton* and the Inhabitants of *Caſtle Bromage*. *Rolls* 2. *Part. fo.* 289. *& Hob. Rep.* 4. 66.

45. If all the Pariſhioners in the Pariſh are not rated but ſome are, and ſome are not; and thoſe who are rated are ſued in the Eccleſiaſtical Court, yet they cannot have a Prohibition but muſt plead this matter in the Spiri-

tual Court. *M.* 11 *Jac. B. R. per curiam. Rolls cases* 2 *part. fo.*291.

46. If the greater part of the Parishioners of a Parish where there are four Bells, agree that there shall be made a fifth Bell, and it is made accordingly, and they make a Rate for payment for it; this shall bind the remainder of the Parishioners, although they did not agree to it; for otherwise any obstinate persons might hinder any thing intended, and what is fit for the Ornament of the Church. *M.* 2 *Car.* 1. *B. R. Rolls cases*, 2 *part fo.* 291.

47. Note, That a man ought to be rated according to his personal Estate, and not according to his Lands for the Ornaments of the Church. *M.* 20 *Jac. B. R. Rolls cases*, 2 *part. fo.* 291.

48. These things hereafter mentioned are accounted Church Reparations, *viz.* the Walls of the Church and Church Steeple, the Churchyard Walls of Stone or Brick, the Windows of Stone or Brick, and the Bars of Iron and Glass, the Roof of Timber, with Laths, Nails, Prigs, Dogs, and Bolts of Iron the covering of Lead, Tile, Slates, or Shingles, the Floor with Stone or

paving

paving Tile, the Doors of Timber with Locks, Keys, Ridges, Hooks and Nails, the furniture of the Steeple with Stairs, Floors, Bells, Wheels and Ropes, the Pulpit and the Pews or Seats, not made by private men, and all these are to be perform'd by Land Rate, *&c.* though the occupier lives in another Parish, as aforeshewed.

49. But these hereafter mentioned are not properly Church Reparations, *viz.* the Communion Table, with the Covering thereof, the Communion Cups, the Bread and Wine for the Communicants, the Bible and other Books appointed to be in Churches, the washing the Communion clothes, the Candles for the Lecture dayes, the Surplice, the Pulpit Cloth and Cushion, the Clerk and Sextons wages, and expences of the Churchwardens and Sidemen at the Visitation; and therefore all these are to be performed Ratably by the Inhabitants of the Parish, and not by out-dwellers.

CHAP. VI.

Some cases wherein the Churchwardens are equally concerned with the Constables and Overseers of the Poor. See fol. 32, 33, 34. their Power about Conventicles.

50. IF any of their own authority shall wilfully disturb any Minister in his Preaching or Reading of Divine Service, the Churchwardens or Constables may of their own Authority apprehend such persons, and bring them to a Justice of Peace to be dealt with according to Law. 1 *Mar. ch* 6. See *the Constables Guide, chap. Disturbing of Ministers, &c.*

51. These Officers are to joyn with the Overseers of the Poor in the execution of their Office, for they have an equal Authority and charge with them in the execution of the whole Office; therefore see afterwards in the Office of *Overseers of the Poor, chap.* 1.

52. If a Rogue be brought to these Officers, they must receive him and look to him, or forfeit 5 pound, and be bound

bound to the good behaviour, *Stat.* 39. *El.* See *Conſtables Guide ch. Rogues, &c.*

53. Theſe Officers, by Warrant from a Juſtice of Peace, may levy the forfeiture for curſing and ſwearing which is twelve pence upon the Offenders Goods, 21 *Jac. ch.* 20. 3 *Car.* 1. *ch.* 4. See *Conſtables Guide, ch. Swearing. &c.*

54. If any forfeiture be by any offence about killing Hares, Pheaſants, or Partridges, and the Juſtice of Peace force the payment thereof to theſe Officers, they are to ſee it imployed to the uſe of the poor of the Pariſh, 1 *Jac. ch.* 27.

55. Theſe Officers are to preſent the Offences againſt the 1 *Jac.* for ſuffering Tipling and Drunkenneſs, and ſelling by unlawful meaſure, and are to execute the Warrants from the Juſtices concerning the ſame, 1 *Jac. chap.* 9. 1 *Car.* 1. *ch.* 4. 21 *Jac. ch.* 7. 4 *Jac. ch.* 5. See *Conſtables Guide, ch. Alehouſes,* &c.

56. Theſe Officers alſo are to execute the Warrant againſt ſuch as profane the Lord's Day by Sports, *&c.* 3 *Car.* 1. *ch.* 1. *& ch.* 22. See *Conſtables Guide, ch. Profanation of the Sabbath.*

57. These Officers also are to execute the Warrants against such as destroy Fish unlawfully, 3 *Jac. ch.* 12. See *Constables Guide, ch. Fish*, &c.

58. These Officers are also to joyn with the Constables, in the making of Rates for the Relief of poor maimed Souldiers and Mariners, and for conveying prisoners to the Gaol, and to execute the Warrants for the same, 43 *El.* 14 *El. ch.* 5. 3 *Jac. ch.* 10. See *Constables Guide ch. p. Quarter Moneys, & chap. Conveying Prisoners to the Gaol.*

59. These Officers are also to joyn with the Constables in the choosing of Surveyors for the High-ways, and in the setting down of days for the work, and in the oversight of the High-Constables Account for the Monies they do receive upon any forfeiture about the High-ways, and they may also with the help of two Justices of the Peace (*Quor. unus.*) force High Constables that have received any monies forfeited for default of High-ways, to account for it, and pay in, what is in their hands to be imployed about the Highways; and these Officers also are to execute the Justices Warrants for all

all such penalties about cleansing the Streets and repairing High-wayes, as are forfeited by the 14 *Car.* 2. *chap.* 2. *Vide* 2, 3 *P. & M. chap.* 8. See *Constables Guide, ch. High-ways.*

60. These Officers have equal Authority with the Constables or Overseers of the Poor, about the seizing of forreign Cattel imported into *England*, &c. 18 *Car.* 2. *ch.* 2. See *Constables Guide, ch. Irish Cattel.*

61. These Officers together with the Overseers of the Poor, are to execute the Justices Warrant for levying the penalty of five pound upon the party's Goods that is not buried in Woollen, which penalty is to be imployed to the use of the Poor of the Parish, where such party was buried. 18 *Car.* 2. *ch.* 4.

62. These Officers in the several Parishes within the Cities of *London* and Burrough of *Southwark*, &c. upon every Tuesday or Wednesday in *Easter*-week, together with the Constables, Overseers of the Poor, and Surveyors of the High-wayes of every Parish respectively, or the greater number of them, giving notice unto, or calling,

calling together such other Inhabitants of their respective Parishes, as have formerly born the like Offices; they, or the greater number of them are to make choyce of, and shall nominate and appoint two or more able persons, that are Tradesmen of their Parish, to be Scavengers for the Streets, Lanes, and other open passages of each Ward or Division within the said Parish for the year then next following, and until others be chosen and setled in their place. 14 *Car.* 2. *chap.* 2.

CHAP. VII.

The Churchwardens Office about passing Accounts, together with the Heads of most of the things which they are to present at the Visitation Court.

63. ALL Churchwardens at the end of their year, or within a month after at the most, are before the Minister and Parishioners to give up a just Account of such Monies as they have received, and also what particularly they have bestowed in Reparations

or otherwise for the use of the Church: And last of all, going out of their Office, they must truly deliver up to the Parishioners whatsoever Moneys or other things of Right belonging unto the Church or Parish which remains in their hands, that it may be deliver'd over by them to the next Churchwardens by Bill indented. *Vide Canon* 89.

64. And if they refuse to do this, they may be presented at the next Visitation Court for it, or the succeeding Churchwardens may have an Action of Account against them by the Common-Law, and compel them to give an Account, and answer for their doings during the time of their Office; And if they have done the Parish any wrong, to make amends and satisfaction for the same to the use of the Parish for the harm it hath received by their default: And in this Account the old Officers shall have allowances for all the needful Summs of Money laid out or spent by them, either upon the Reparations of the body of the Church, Tower, or Bells, *&c.* or for Relief of the Prisoners in the Gaol, or otherwise where the Law doth injoyn them

to

to pay or disburse any mony. *Vide* 8 *E.* 4. *fo.* 6. *b.*

65. Now as touching the Churchwardens presentments. Note, That no Churchwardens, Questmen or Sidemen of any Parish shall be inforced to exhibit their presentments to any having Ecclesiastical Jurisdiction, above once in every year, where it hath been no oftner used, nor above twice in any Diocese whatsoever, except it be at the Bishops Visitation; for the which Presentments of every Parish, Church or Chappel, the Register of any Court where they are to be exhibited, shall not receive in one year above four pence, under pain for every offence therein, of suspension from the execution of his Office for the space of one month *toties quoties*, but the Churchwardens may voluntarily upon their own Account present oftner if they please. *Canon* 116.

66. But no Churchwardens, Questmen or Sidemen, shall be called or cited, but only at the said time or times before limited, to appear before any Ecclesiastical Judge whatsoever, for refusing at other times to present any faults.

faults committed in their Parishes, and punishable by Ecclesiastical Laws; neither shall they, nor any of them, after their Presentments exhibited, at any of those times be any further troubled for the same, except upon manifest and evident proof it may appear, that they did then willingly and wittingly omit to present some such publick crime or crimes as they knew to be committed, or could not be ignorant that there was then a publick fame of them, or unless there be a very just cause to call them for the Explanation of their former Presentments; In which case of wilful omission, their Ordinaries shall proceed against them in such sort, as in causes of wilful perjury in a Court Ecclesiastical it is already by Law provided, *Canon* 117.

67. Note, That one of the two times for presentments is always to be about a Week or a Fortnight after *Easter*, at which time also the old Churchwardens are to leave the Office, and new ones are to come in; but the new ones are not to be sworn till the old ones have given in their Presentments, and every Parson or Vicar, and in the lawful

ful abſence of the Parſon or Vicar, then their Curates and Subſtitutes are to joyn in every Preſentment with the Churchwardens, Sidemen and Queſtmen; and if the Churchwardens, &c. refuſe to preſent, then every ſuch Parſon and Vicar, or in their abſence, as aforeſaid, their Curates may themſelves preſent to their Ordinaries at all ſuch times, and when elſe they think meet. *Canon* 113, 118.

68. The Heads of the Articles, moſt commonly exhibited to the Churchwardens to make their Preſentments upon, are as followeth:

69. *Whether their Church and Chancel, Bells and Ropes be good and well repaired, and the Ten Commandments, Lords Prayer, and Creed, drawn out in fair Letters, the Kings Arms ſet up, Aſſeſſments made for the Repair of the Church, and who refuſes to pay. If they have a Font, Communion Table, Carpit, Tablecloth, Flaggons with Cups, and Cover for Bread and Wine, Reading Desk, Pulpit with a Cuſhion and covering for it, a Common Prayer-book of the largeſt Volume, and the Bible of King* James's *Tranſlation in folio, with a Book of Homilies, and Book of Canons and*

&

a Surplice? If the Tombs, Monuments and Grave-ſtones be ſafely kept from removing and breaking; a Book of Parchment for Regiſtring Chriſtnings, &c. A Cheſt with three Locks to put the ſame and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibited in Marriage, ſet forth 1563. hung up in the Church? And if the Parſonage houſe and out-houſes be in good repair; and the Churchyard well fenced to keep out Swine, &c.

70. *Then whether their Parſon, Vicar, or Curate, read the Common Prayer at Morning and Evening Service, wear his Surplice, bid Holydays, Preach every Sunday, or read the Homily, Catechiſe, obſerve the* 5. November, 30 Jan. *and* 29 May, *and keep Perambulations, preach ſound Doctrine, and vent no Sedition againſt the King or Government, celebrate the Lords Supper three times every year at leaſt, whereof at* Eaſter *for once; Baptiſe Infants with Godfathers and Godmothers: viſit the Sick, and pray with them, Bury the Dead according to the Book of Common Prayer, Marry none clandeſtinely, Preach in his Gown, be a man of a ſober and chaſte life, a Peace-maker amongſt his Neighbours, and one that takes*

care

care to reduce Sectaries, Popish Recusants Separatists and Refractory persons to the Obedience and Doctrine of the Church, and reads the Book of Canons to the People, at least once every year, and the 39. Artcicles twice every year according to his Majesties Letters published 1662?

71. Then whether all their Parishioners of due Age, resort to the Church to Divine Service, behave themselves Reverently there, Kneel, Stand up, and make Answer according to the Rubrick of the Common Prayer Book? Whether any work, or sell wares on Sundays or Holydays, or Vintners, Victualers, Inkeepers, or others, receive any into their houses to tipple on those days? Whether any marry within the prohibited Degrees, be Adulterers, Fornicators, Blasphemers, Swearers, Drunkards, or Sorcerers; and if all above sixteen years old receive the Lords Supper at least three times every year, Easter to be one? and whether any keep their children unbaptized; women after delivery, in due time come not to be Churched, or any bring not their Dead to be buried after the Service of the Church, keep Conventicles; have been married without Banes or Licence at unlawful hours, and whether their Almshouses, Hospital, School

or

or Spittle, if they have any be well and godlily uſed, or any thing detained from it? What Legacies given to pious uſes; and if the Pariſhioners, be placed into Pews or Seats, without offence or contention.

72. *And laſtly, whether their Pariſh Clerk and Sexton (if they have any) be duly choſen, can write and read, be of an honeſt life, and make the Reſponſes to the Hymns and other Suffrages? and if the Schoolmaſter and Uſher, Phyſitian, Chyrurgeon, or Midwife, (if they have any of them) teach or practiſe without Licence? if the Churchwardens be duly choſen in the Week after* Eaſter, *by the Parſon and Pariſhioners, according to the Canon or Cuſtom? and if the old Churchwardens have been diligent to keep the Church in good Repair, to preſerve all the Furniture thereof, and walk out of the Church uſually about the middeſt of Divine Service to ſee who are abroad in the Alehouſe, or elſewhere abſent, or evilly imployed?*

73. Theſe are the heads of moſt of the Articles that are inquired of at the Viſitation Courts; but it is probable there may be ſome ſmall alteration, according to the uſe of the ſeveral Dioceſſes in ſeveral places.

FINIS.

A GUIDE FOR Overseers of the Poor.

CHAP. I.

Of the Antiquity of the Officers, their Qualifications, and how and when to be chosen.

1. THis Office of Overseers of the Poor, is a Name and Office of great Excellency and Antiquity, and may beseem the best and not the meanest men in a Parish; for this is not the least Office, to be called *Overseers of the Poor*; for as God himself hath a special respect to the miseries of the Poor, so they be like God which provide for the necessities of the Poor.

2. Now

2. Now it is certain that the Antiquity of this Office is above sixteen hundred years standing, as appears by holy Writ, for we find St. *Stephen* the Protomartyr, a man full of Faith and of the Holy Ghost, and *Philip*, and *Prochorus*, and *Nicanor*, and *Timon*, and *Parmenas*, and *Nicholas* a Proselyte of *Antioch*, chosen to this Office, as appears *Acts* 6. 5. & see *Acts* 20. & 28. & 1 *Cor.* 16. 2, 3.

3. As for the qualifications of these Officers, they ought to be substantial persons, having a competency of Wealth, Wisdom, a good Conscience, and of honest report; see *Acts* 6. & 3 *Dalt. J. P. ch.* 40. *fo.* 93.

4. Now these Overseers of the Poor, here with us in *England* are certain Officers appointed yearly to be joyned and Assistant to the Churchwardens of the Parish, in the oversight and ordering of the poor of the Parish, and they are to be appointed by two or more Justices of the Peace of the County (whereof one to be of the *Quorum*) dwelling in or near the Parish or Division, &c. who are yearly under their Hands and Seals, at *Easter*, or within a month

month after to appoint 4, 3, or 2, ſubſtantial Houſholders, (according to the greatneſs of the Pariſh to be joyned with the Churchwardens of the Pariſh) and all theſe together are to look to the Poor of the Pariſh; for the Churchwardens of the place have an equal power and charge with the Overſeers, and may be puniſhed for their neglect, if they refuſe to meddle herein. 43 *El.* 2. 21 *Jac. ch.* 28. *Dalt. J. P. ch.* 40. *fo.* 93. *Wingate's Stat. Tit. poor people.*

5. The major part of theſe Officers, without the reſt of them may do any thing belonging to their Office. But they are to have the allowance and conſent, either in particular or in general, of two Juſtices of the Peace (*Quorum unus*) to every thing they do about their Office. And theſe Officers, or ſuch of them as ſhall not be let by juſt excuſe, (to be allowed by two Juſtices) are to meet monthly in the Church on Sunday after Evening Prayer, and there they are to conſider of ſome meet directions about their Office, and they are to uſe all poſſible diligence in their Office, in pain to forfeit for every ſuch Default twenty ſhillings

lings. 43 *El. ch.* 2. *Wingate's Stat. Tit. Poor people.*

6. The Inhabitants of the Townſhips within the great Pariſhes of *Lancaſhire, Cheſhire, Derbyſhire, Yorkſhire, Northumberland,* Biſhoprick of *Durham, Cumberland* and *Weſtmerland,* are to take care for the Poor of their Townſhips and Villages only, and are yearly to chooſe Overſeers for the Poor within their ſeveral Townſhips and Villages: And theſe Officers ſhall have the ſame power in the place where they are choſen, for the relief of the poor there, and forfeit the like penalties for their neglect, as ſuch like Officers for intire pariſhes ſhall do. 14 *Car.* 2. *ch.* 12.

7. And if it happen that Overſeers be not appointed according to the 43 *El.* then every Juſtice of peace, or Head Officer of that Diviſion or Corporation ſhall forfeit 5 *l.* to be levied by a Seſſions Warrant, and imployed to the uſe of the Poor of the Pariſhes where ſuch default is made. 43 *El. ch.* 2. *Wingate's Stat. Tit. Poor people.*

CHAP.

CHAP. II.

Of the ſeveral ſorts of poor people, and what poor the Overſeers are to provide for, and relieve or ſet to work.

8. NOte that there are three ſorts or degrees of Poor, as firſt the Poor by impotency and defect, as the aged and decrepit that are paſt their labour; the Infant, Fatherleſs and Motherleſs, and not able to work, the perſon naturally diſabled either in Wit or Member, as an Ideot, Lunatick, Blind, Lame, *&c.* not being able to work, and the perſon viſited with grievous ſickneſs or diſeaſe, though caſually, yet thereby for the time being impotent. All theſe the Overſeers are to provide for, that they have neceſſary relief and allowances proportionable and according to the continuance and meaſure of their maladies and needs, and of theſe it may be ſaid, *Si non paviſti, occidiſti: Dalt. J. P. ch.* 40. *fo.* 100.

9. Then ſecondly, the Poor by caſualty, caſually diſabled or maimed in his body, as the Souldier or

Labourer, *&c.* maimed in their lawful Callings, the Houſholder decayed by caſualty of Fire, Water, Robbery, Suretiſhip, *&c.* the poor man overcharged with Children, All theſe and ſuch like others) having ability and ſtrength of body, but not ſufficient means to maintain themſelves are to be ſet to work by the Overſeers, and being not able to live by their work they are in Charity to be relieved, in ſome reaſonable proportion, according to their ſeveral wants and neceſſities. *Dalton's J. P. chap.* 40. *fol.* 100.

10. Then laſtly the Thriftleſs poor, as the riotous and prodigal perſon that conſumes all with play or drinking, *&c.* the diſſolute perſon, as the Strumpet, Pilferer, *&c.* the Slothful perſon that refuſeth to work, *&c.* and the Vagabond that will abide in no place or ſervice; and for all theſe the Houſe of Correction is the place where they are to be ſent to, and being of able bodies there they are to be held to hard labour, and to maintain themſelves by their labour and work, without charging the Town or Country for any allowance. 7 *Jac. ch.* 4. *Dalt. J. P. ch.* 40 *fo.* 101.

11. But it seemeth that if any of these last sort of Poor happen to prove impotent, and also in Cases of manifest extremity, then they are to be relieved by the Town. *Dalt. J. P. ch.* 40. *fo.* 101.

12. If the Parents be able to work, and may have work, they are to find their Children by their labour, and not the Parish; but if they be overcharged with Children, they may have help, by having some of their Children put out Apprentices by the Overseers. *Dalt. J. P. ch.* 40. *fo.* 98.

13. The Father, Grandfather, Mother, Grandmother, and the Children and Grandchildren of every poor impotent person not able to work, being of sufficient ability, shall relieve such poor persons in such manner, as the Justices of Peace of that Country where such sufficient person dwelleth) at their General Quarter Sessions shall Assess; and if such person refuse to abide the order they forfeit 20 shillings for every month to the Poor of the Parish, which forfeiture is to be levyed by the Churchwardens and Overseers, or one of them, by Warrant from any two Justices of the Peace (*Quorum unus*) within their Limits,

by distress and sale of the Offenders Goods and for want of distress, any two such Justices may commit the Offender to Prison, there to remain without Bail, till the said Forfeiture be paid. 43 *El.* 2. *ch.* 2. *Resol. Judges* 16,17. *Dalt. J. P. chap.* 40. *fo.* 98.

14. But note, That if a man marry a Grandmother that hath no Estate, the Grandfather in Law is not chargeable: But if she hath an Estate caused without such marriage, or that comes after marriage by descent or otherwise to her, here he may be charged; But where they have raised themselves to an Estate by their own Industry there it is doubtful. But in no case shall he be charged longer than his wife lives; and it seems also Bastard Children are not within this Law, neither can the Justices do any thing herein against a man that lives out of their County. See *Boulstr. Rep.* 2 *part. fo.* 245, 246, 247.

15. No poor may beg but in their own Parish, and there by Licence of the Overseers of the poor; and the y may not licence them to beg in the High-wayes there, and without the Licence of the Overseers they may not beg at all. *Res. Judges*

Judges 15. *Dalt. J. P. ch.* 40. *f.* 99. 39 *El.* 3.

16. No Inhabitants may serve any Poor at their Door, but those of their own Parish, that have licence from the Overseers of the Poor to beg there, under pain of 10 *s.* for every time they do so. 1 *Jac.* 7. *Dalt. J. P. chap.* 47. *fol.* 129.

17. These Officers are to make provision for a poor man that wants an house (but not for a common Herdsman or Shepherd) with consent of the Lord of the Mannor first had in writing under his Hand and Seal, either by themselves, or with a Sessions Order, may erect a Cottage upon any part of the Waste of a Mannor, and lodge Inmates therein, notwithstanding the *Stat.* 31 *El.* 7. But such Cottage may not be afterwards imployed otherwise than to lodge impotent persons there; for, if it be, then it falls within the penalty of the 31 *El.* aforesaid. 43 *El. ch.* 2. *Wingate's Stat. Tit. Poor people.*

18. All such persons married or unmarried, having no means to maintain them, use no ordinary and dayly Trade of life to get their living by, and such persons also as can get no work, are to

be set on work by the Overseers; and any one Justice of Peace may send to the House of Correction or Common Gaol, such as shall not imploy themselves to work, being appointed thereto by the Churchwardens and Overseers of the Poor of the Parish. 43 *El. ch.* 2. *Dalt. J. P. ch.* 40. *fo.* 93.

19. And to this purpose the Churchwardens and Overseers of the Poor may by and with the Consent of two or more Justices of the Peace (*Quorum unus*) &c. Set up, use, and occupy any Trade, Mystery, or Occupation, only for the setting on work, and better relief of the Poor of the Parish, Town or place where they are Overseers, *&c.* 3 *Car.* 1. *chap.* 4. *Dalt. J. P. chap.* 40. *fo.* 94. *Wingate's Stat. Tit. poor people.*

20. If a Stranger come into the Parish into any Tenement, under the yearly value of 10 *l.* the Overseers may require sufficient Security of him, for the discharge of the Parish, and if he refuse, they may complain to the Justices of Peace within 40 dayes after the party come there, and they may order him to do it, or otherwise remove him. 14 *Car.* 2. *ch.* 14.

CHAP.

CHAP. III.

The Duty of the Overseers about putting forth and binding of Apprentices, with the form of the Indenture for such purpose.

21. IN the putting out of Children Apprentices, there ought to be regard had to the Master, the Child and the Parents; first to the Master, that he be of ability and honesty, otherwise by some divice or hard intreaty they may provoke their Apprentices to depart or run away; and regard is also to be had to his Trade or Faculty, lest the Apprentice consume his time without learning any thing. Secondly, Regard is to be had to the Apprentice to put them out timely, and while they are young and tractable (so that they be above the age of seven years) otherwise by reason of their idle and base Educations they will hardly keep their Service, or imploy themselves to work: Then lastly, Regard is to be had to the Parents to take away such from them as are brought up to live idlely and loos-

loosly, or else such as are a burthen and charge to their Parents. *Dalt. J. P. ch. 40. fo. 94, 95.*

22. Note, that the choise of these Apprentices are to be out of the poorest sort of Children, whose Parents are the least able to relieve them, and they are to be above 7, and under 15 years of Age when they are first bound. *7 Jac. ch. 3. Wingate's Stat. Tit. Poor People.*

23. And these Officers are to have the consent of two Justices of the Peace in the placing out of such Apprentices; and they may bind the man-child till 24 years of age, and the Woman child till 21 years of Age, or till she be Married; which shall first happen: And these Apprentices may be bound to Weavers, Masons, Dyers, Fullers, or any other Trade, as well as to Husbandry or Housewifery. See *43 El. ch. 2. Dalt. J. P. ch. 31. fo. 83. Wingate's Stat. Tit. Poor people.*

24. Now this placing of Apprentices may be to any man, whom the Officers and Justices think fit to receive them, within the same Parish, or elsewhere in other Parishes within the same Hundred, either with or without Money; there-

therefore it is fit in this Case to consider, if the Child be young and the party to whom they place it is not very able, then they may give money, if they please, as the party and they shall agree. *Resol. Judges* 1633. *Quest.* 1.

25. All men that have, or may have use for Servants, as Knights, Clergymen, Gentlemen, and Yeoman, as well as Tradesmen, are bound to take Apprentices; yea, though wealthy men Table themselves, or live so privately, that they have no use for a Servant, yet they may be compelled to take them; or else to pay a sum of money for putting them Apprentice elsewhere; and if they refuse to pay the sum imposed upon them: Two Justices of the Peace may make their Warrant to levy the same by distress and sale of the Offenders Goods. *Resol. Judges* 1633. *Quest.* 1. *Poulton* 2. 4. *Dalt. J. P. ch.* 40. *fo.* 95.

26. Or, the Refusers to take Apprentices may be presented and indicted for the same upon the *Stat.* 43 *Eliz. ch.* 2. at the Assizes or Sessions of the Peace. *Dalt. J. P. ch.* 40. *fo.* 95, *Resol. Judges.* 1633. *Quest.* 7.

27. An Apprentice put to a man in-

respect of his Farm when his Lease expireth, the Apprentice shall go still with the Farm, if the first Master be so pleased; otherwise it is where an Apprentice is put to a man in regard of his Ability, or for other respects. And where any differences are between the Officers and the man that is to receive an Apprentice, about money, and what money shall be given, or otherwise, here the Justices thereabouts, or, in their defaults, the Sessions must end it. *Resol. Judges*, 1633. *Quest.* 2. *Dalt. J. P. ch.* 40. fo. 95.

28. If the Parents of poor Children shall refuse to let their Children be put forth Apprentices (without good cause shewed) such Parents may be bound over by the Justices, to answer their said Default; and if the Children shall refuse, the Justices may send them to the House of Correction, there to remain till they be content to be bound and serve. *Dalt. J. P. chap.* 40. & 31. 40. 76, & 78.

29. Note, That this binding must be by Indenture, and may not well be done by a Verball Agreement, and the Indenture must be either between the Ju-

Justices, Churchwardens and Overseers, or them, and the Apprentice on the one part, and him that takes the Apprentice of the other part, as appears by the form of the Indenture in the end of this Chapter; and he must be named by the name of Apprentice expressly, or else he is no Apprentice, though he be bound. *Cromp.* 184. *Dal. J. P. ch.* 31. *f.* 82.

30. And this binding is as effectual to all purposes, as if the Children were of full age, and did bind themselves by Indentures and Covenants; and all such as are bound by the Overseers, as aboveſaid, may safely be received and kept as Apprentices by their Masters. 1 *Jac. ch.* 25. 21 *Jac. ch.* 28. *Dalt. J. P. ch.* 31. *fo.* 83. 3 *Car.* 1. *ch.* 4. 5 *El. ch.* 4. *Cromp.* 184. *b.*

31. Note, That money given, to put out poor Children Apprentices, is to be imployed in Corporate Towns by the Corporations, and in other places by the Parson or Vicar, together with the Constables, Churchwardens, and Overseers of the Poor, or the most part of them; who shall not forbear or refuse to imploy the same accordingly, in pain to forfeit five marks, each of them.

them ſo making default, to be divided betwixt the Poor of the Pariſh and the proſecutor. 7 *Jac. ch.* 3. *Wingate's Stat. Tit. poor people.*

32. And the party, taking any money with ſuch Apprentice, ſhall give good Security by Obligation to repay it at the end of ſeven years next enſuing the date of the ſaid Obligation, or within three months next after the end of the ſaid ſeven years; and if ſuch Apprentice ſhall dye within the ſeven years, then within one year after his or her death; and if the Maſter, Miſtriſs, or Dame, happen to dye within the ſeven years, then within one year after their death: ſo as the money may be imployed in placing the Apprentice with ſome other of the ſame Trade, to ſerve out his time, at the diſcretion of the parties truſted, as aforeſaid. 7 *Jac. ch.* 3.

33. And the mony ſo given ſhall be imployed within 3 months after the Receipts thereof; and if there ſhall not be apt perſons found in the places where it was given to the Apprentices, it ſhall then be imployed in the pariſhes next adjoyning, by the parties that are truſted with it in the place where it

was

was ſo given, and there alſo Bond ſhall be taken, as afore is declared. 7 *Jac. ch.* 3.

34. Note, that if the Maſter ſhall put his Apprentice into Apparel, it is a Gift in Law, and he cannot afterwards take it away, though he ſhould part with his Apprentice. *Bro. Tranſgr.* 93.

35. An Apprentice cannot be diſcharged from his Apprenticeſhip, but by 4 Juſtices of the Peace at the leaſt, and in open Seſſions, or elſe by the Agreement of the Maſter and Apprentice, and under his Maſters hand in writing. *Dalt. J. P. ch.* 31. *fo.* 79.

36. The Form of theſe Indentures, mentioned before, is as followeth, *viz.* This Indenture made the 29 day of *September*, in the 20 year of the Raign of our moſt gracious Soveraign Lord *Charles* the Second, by the Grace of God, of *England, Scotland, France* and *Ireland*, King, Defender of the Faith, *&c. Annoq; Dom.* 1668. Witneſſeth that *J. W.* and *G. B.* Overſeers for the Poor in the Town of *Kirk-Leaventon* and *J. R.* Churchwardens for the ſame Town by and with the conſent of Sir *J. P.* Knight and Baronet, and *T. M.* Eſq; two

two of his Majesties Justices of Peace for the North-Riding of the County of *York*, have by these presents placed and bound *I. T.* (being a poor fatherless Child) as an Apprentice with *E. H.* of *Kirk-Leaventon* aforesaid, Widdow, and as an Apprentice with her the said *E. H.* to dwell from the day of the Date of these presents, until she the said *I. T.* shall come to the age of 21 years, or be married, which shall first happen, according to the Statute in that case made and provided; by and during all which time and term the said *I. T.* shall the said *E. H.* her Dame well and faithfully serve, in all such lawful business as the said *E. H.* shall put her the said *I. T.* unto, according to her power, wit, and ability, and honestly and obediently in all things shall behave her self towards her said Dame and Children, and all the rest of the Family of the said *E. H.* And the said *E. H.* for her part promiseth, covenanteth, and agreeth that she the said *E. H.* the aforesaid *I. T.* in the Art and Skill of Housewifery the best manner that she can, or may, shall teach and inform, or cause to be taught and informed as much

much as thereunto belongeth, and she the said *E. H.* knoweth; and also during all the said Term to find unto her said Apprentice, Meat, Drink, Linnen, Woollen, Hose, Shooes, Washing, and all other things needful or meet for an Apprentice. In Witness whereof, *&c.*

37. Note, If it be a Boy that is to be bound Apprentice to Husbandry, or any other Trade, then he may be bound till 24 years of Age, as is shewed before in this Chapter.

CHAP. IV.

Several Cases about Settlements, and also touching Bastards, &c.

38. NOte, There have been formerly many Controversies, what time should be accounted a Legal Settlement, but now all Objections in that point are answered; for it is appointed by the 14 *Car.* 2. that 40 dayes shall be accounted a Legal Settlement; but then this Settlement ought neither to be obscure, interrupted, nor brought about by practice.

39. As

39. As touching Setling of Poor people: Note, That the Justices are to meddle with none but those who are impotent, and such who are like to be chargeable to the place where they are, *Boulstr. Rep.* 1. *part* 347.

40. And as to this, Know that it is enacted by 14 *Car.* 2. *ch.* 12. That if any Stranger come into a Parish to settle there in any Tenement, under 10 *l.* a year, and he refuse to give such Security for the Discharge of the Parish as two Justices shall think fit, then any two Justices (*Quorum unus*) may upon complaint to them made by the Churchwardens or Overseers, within forty days after the Stranger come into the Parish, make their Warrant to send him to the place where he was last legally setled as a Native, Housholder, Sojourner, Apprentice, or Servant forty daies or more: so that by this it seems to be the opinion of this Parliament, that no man that rents ten pound a year, or above, is to be accounted such a poor man as to be removed by order of the Justices: where any person finds himself agrieved by the two Justices order, he may Appeal to the next Quar-

ter

ter Sessions held for that County for his Relief. 14 *Car.* 2. *ch.* 12.

41. But any person may go into any County, Parish, or place to work in time of Harvest, or at any time to work at other work, so as they carry with him or them a Certificate from the Minister of the Parish one of the Churchwardens, and one of the Overseers of the Poor, that they have a dwelling House wherein they inhabit, and that they have left Wife and Children, or some of them there, and is declared an Inhabitant there; and in such case, if the person shall not return to the place aforesaid, when his work is done, or shall fall sick or impotent, while he is in the said Work, yet this shall not be accounted a Settlement; but any two Justices may send the person or persons to the place or places of his or their Habitation; and if any person shall refuse to go, or shall not remain in the Parish where he ought to be settled, then the Justices may send such person to the House of Correction, there to be punished as a Vagabond, or to a publick Workhouse to be imployed in work or labour. 14 *Car.* 2. *ch.* 12.

This

This Statute, as to the point aforesaid, is to continue to the end of the first Sessions of the next Parliament.

42. Note, that no man but a Vagrant Begger, ought to be sent out of any Parish to the place of his birth or last habitation; for if any refuse to work in the Parish where he is setled, or to work for the wages assessed, then he is by the Justices to be sent to the House of Correction. *Co. 2. part Inst. fo 730. 7. Jac. ch. 4. Resol. Judges 9. Dalt. J. P. ch 47. fo. 126.*

43. If a Scholar in the University, or in a Grammer School begin to be suspect, he may be, or if he doth become impotent, he is like to be a charge to the Parish where he is, he must be sent to his Parents if he have any, otherwise to the place where he was last legally settled before he came to School. *Resol. Judges, 1633. Sect. 31.*

44. If one be born and live 20. years in A. and then go to B. and there live in a House and pay his Rent, and after he comes to C. and there works 20 Weeks as a Labourer in a Quarry of Stones where he breaks his back, and becomes impotent, and there is taken va-

grant

grant and begging, in this Case, he must be sent to *A.* the place of his birth, and there must be provided for. *Resolut. Judges 14 Car. 1.*

45. If a man that hath a Wife and Children take an House in one Parish for a year, and during this time he is illegally forced out of his possession; then he takes an House as an Inmate in another Parish, out of which he is put within two or three days, and then not having any place to be in, he gets into a Barn in the third place, and there his Wife is delivered of another Child, in this Case, they are all to be sent to the Parish out of which they were first illegally forced. *Resolut. Judges.* 1663. *sect.* 24.

46. One born in *D.* left that place for the space of 20 years, then lived in *S.* took an house and paid rent, and left that place also 6 or 7 years, and then came to *L.* in another County, and there was twenty weeks, did work, and there became impotent, and did wander and beg in the same place, and was taken as a Vagrant; and it was ordered he should be passed and setled at *D.* where he was born, but the Judges at

Wor-

Worceſter Aſſizes. 14 *Car.* 1. *Boulſtr Rep.* 1 *part. fo.* 357.

47. No Child under the Age of 7. years ſhall be adjudged a Rogue within the *Stat.* 39. *El. ch.* 4. But it ſeems ſuch Children vagrant and begging muſt be ſent and placed with the Father or Huſband of the wife; and if he be dead, then with the Mother (where ſhe was born, or laſt dwelt by the ſpace of one year) and ſuch Children, once thus ſettled or placed, muſt there remain, and not be ſent from thence to their place of birth, though after their Parents die or run away, or that the ſaid Children grow above the age of ſeven years; yea, though the ſaid Children after beg and prove vagrant in the Town, for there they muſt be ſet to labour by the Overſeers of the Poor. *Reſol. Judges*, 4, 9, 10. *Poult. Vag.* 2. *& Dalt. J.P. ch.* 47. *fo.* 125.

48. But Children above 7 years of age, going about vagrant or begging in the Country, ſhall be puniſh'd as Rogues, and ſent to their place of Birth. *Dalt. J. P. ch.* 74. *fo.* 125. *& Reſol. Judges*, 4. 39 *El. ch.* 4.

49. The Wife, being a Vagrant Rogue,

Rogue, must be sent to her Husband, though he be but a Servant in another Town; and where the Husband and Wife have an House, (though as an Inmate) and either of them Rogue about, in this case they are to be sent to the place where the house is. *Dalt. J. P. ch. 47. fo. 125. Resol. Judges. 3, & 5.*

50. The Rogue whose place of birth or last dwelling cannot be known, having Wife and Children under 7 years of age, they must go with the Husband to the place where they were last willfully suffered to pass through without punishment, where the Children must be relieved by the work of their Parents, though the Parents be committed to the House of Correction; and, if the Rogue have Children above 7 year of Age, that Rogue about with him, then they are to be sent to the House of Correction also with the Parents, and when they come out again, then to their several places of births. *Dalt. J. P. chap. 47. fo. 123.* and *Sheppard's Guide* for *J. P. page 252. Ref. &c. b.*

52. If I live in an House in *A.* there with my Children, but I work in *B.* where I am hired by the year, in this

case

case my Children shall be in *A.* but if I have a House in *B.* they shall be placed there. *Dalt. J.P. ch.* 40. *fo.* 99.

52. *A.* being a Wanderer with three Children born in three Parishes, comes to *Dale* with them to her Sister, and there dieth shortly after, here the Children must be setled in the several Parishes where they were born, and not in the Parish where the Mother died. *Bulstr. Rep.* 2. *part.* 351.

53. No man is to be put out of the Town where he dwelleth and is lawfully setled, not to be sent to his place of birth, or last Habitation, but a Vagrant Rogue, not to be found by the Town except the party be impotent, but they ought to set themselves to labour, if they be able and can get work: and if they cannot get work, then the Overseers are to set them a work: And if in such case, such persons wander abroad begging out of the Parish, then they may be sent as Vagabonds (from the place where they shall be taken wandring or begging) to the place of their birth. *Dalt. J. P. ch.* 40. *fo.* 99.

54. If a Maid Servant be gotten with Child at *A.* by her Fellow Servant (or by

by another Man of the same Town, and after both their Services ended they marry, and then the youngman is retained at *B.* and afterwards the Woman is delivered of her Child, in this case she with her Child are to be sent to the Father at *B.* and there must be settled. *Dals. 7. P. ch. 40. fo. 99.*

55. If any disturbance be made to any Settlement lawfully ordered by the Justices, either by the Constables refusing to receive and convey a Rogue where they ought to do it, or by the Churchwardens and Overseers of the Poor in refusing such an one as is duly sent to be settled there, in such case they forfeit 5 *l.* by the 39 *El. ch.* 4.

56. If a woman unmarried be hired Weekly, Monthly, half Yearly, or Yearly, in one Parish, and there be gotten with Child, and then goeth into another Parish, and there is settled in Service, or otherwise for two or three months, and then she is discovered to be with Child, in this case she and her Child shall be settled in the Parish where she then is, and must not be sent to the Parish whence she came. *Resol. Judges*, 1633. *Sect.* 12.

57. If

57. If a Woman be delivered of a Baſtard Child in one Pariſh, and then go into another Pariſh with her Child, in this caſe the Child after it is nurſed, is to be ſent to and ſettled in the place where it was born, and not to remain with the Mother. *Reſol. Judges*, 1633. *Sect.* 21.

58. If *A.* have a Baſtard Child by *B.* born in *Dale*, ten years ſince, and the reputed Father marries another Woman, and they breed the Child 10 years in the Pariſh of *Dale*, and the Mother of the Child is in Service all this while, and a ſingle woman, the reputed Father dies, in this caſe the Child is to be ſent to the Mother firſt, to be maintained by her, if ſhe be able, and if not, it muſt be kept by the pariſh of *Dale*, where it was ſettled with the Father 10 years. *Bonſtr. Rep.* 2. *part. fo.* 350.

59. If a Woman have a Baſtard Child and is like to be chargeable to the Pariſh, and ſhe is ſent to the Houſe of Correction for it (as ſhe may be by Law) in this caſe it hath been queſtioned whether the Child muſt go with her, or remain in the Town where it was born, (or ſettled with the Mother)

and

and there to be relieved by the work of the Mother, or by relief from the reputed Father, upon the 18 *El.* and it seems most reasonable to be so; and yet the common opinion and practice is otherwise (to wit) to send the Child with the Mother to the House of Correction: and this may also seem reasonable where the Child sucketh on the Mother. *Dalt. J. P. ch.* 11. *fo.* 39.

60. If a Woman with Child be sent to the House of Correction, and there be delivered, the Child must be sent back to the Parish where the Woman came from, there to be relieved. Also if a Woman be travelling, and have her Child with her, and is apprehended and sent to the Gaol, and there hanged for Felony, in this case the Child shall not be chargeable to the place where the Gaol is, but to the place where it was born (if it can be known) otherwise to the place where the Mother was apprehended; and so was the opinion of Sir *Nicholas Hide.* 3 *Car.* 1.

61. The two next Justices (*Quorum*) in or next to the limits where the Parish Church is, may take order as well for the punishment of the Mother

and reputed Father of a Baſtard Child, as alſo for the relief of the Pariſh where it is born, by charging the Mother and Father with the payment of money weekly towards the keeping of it, or otherwiſe; And, if the Mother or Father perform not the Juſtices order therein, they are to ſuffer impriſonment without Bayl, except he or ſhe give ſecurity to perform, or elſe to appear at the next Seſſions, and abide the order of the Juſtices there, if any be made there, and if none be made, then to ſtand to the firſt order. *Dalt. J. P. ch.* 11. *fo.* 37, *&* 38. 18. *Eliz. ch.* 3.

62. Note, That this Order may be made by any two Juſtices of the County (*Quor. unus*) as it is held by ſome, but moſt properly by the two next Juſtices; and the queſtion muſt be about ſuch a Baſtard Child as is like to be a charge to the Pariſh; and the Security muſt be given to the Pariſh where the Child is born, to ſecure the Pariſh from the charge of the Child or to keep the Child: it muſt be a Pariſh within the County where the two Juſtices have power, and the Order muſt be certain, how long the reputed Father

Father must keep the Child, secure the Parish, *&c.* and it must be made against the person that is suspected to have gotten the Bastard Child, and not against another person to contribute towards it, because it was gotten in his house, *&c.* and the Order must express the Child by the name of a Bastard Child, and not the reputed Child of such an one; and the Justices for the better discovery of the matter, may upon Oath examine the Mother herself concerning the reputed Father the time, *&c. Dalt. J. P. ch.* 11. *fo.* 37. 18 *Eliz. ch.* 3. 7 *Jac. ch.* 4. See *Steel's Rep. fo.* 154, 245, 246, 247, 388. and see *Pridgeon's* case, *Hil.* 9 *Car.* 1. *B. R.* and *Slater's* case, *Pasch.* 13 *Car.* 1. *B. R. Cro. Rep.* 1. *Part.*

63. Where the Putative Father or Mother of a Bastard Child shall run out of a Parish or County, and leave their Children upon the charge of the Parish, having Estates sufficient to discharge the Parish, there the Churchwardens and Overseers of the Poor of the place where the Child is born, may seize so many of the Goods and Chattels, or Rents of his or other Lands, for

the discharge of the Parish, and bringing up and providing for the Child, as any two Justices shall order; and thereupon the Sessions is to dispose and sell the Goods and Chattels; and the Sessions may order the Officers aforesaid, what they shall receive of the Rents and Lands also for the purposes aforesaid. *14 Car. 2. ch. 12.*

CHAP. V.

The Overseers Office in making of Rates, and passing Accounts.

64. THese Officers, or the greater part of them (for the doing and performing of the things they have in charge) may raise weekly, or otherwise by Taxation of every Parson, Vicar, and other Occupier of Land, House, or Tythes, Cole-mines, or saleable Underwoods, within the Parish, Town, *&c.* such a sum as they shall think fit, and this Rate they must have allowed and confirmed under the hands of Two Justices (*Quorum unus*) and then by a Warrant from them; or any

any other Two Justices (*Quor. unus*) they may levy, by distress and sale of the Goods of the party refusing to pay the said Tax, rendring the Overplus to the owners; and in Default of Distress to such Justices may commit the party to Prison, there to remain without Bayl till it be discharged by him. 43 *El. ch. Dalt.* 7. *P. ch.* 4. *fo.* 67. *Wingate's Stat. Tit. Poor People.*

65. Now these Rates ought to be well and truly made, according to mens visible Estates, real and personal, within the place only, and not for any Estate elsewhere; at *Lincoln* Assizes 9 *Car.* 1. by Justice *Hutton* and *Crook*.

66. Note, That a Parish in Reputation shall be a Parish within this Law; so that if *A.* be an ancient Parish that hath Officers in it, and there be a Town within this Parish, which for a long time hath been used and reputed as a Parish, and hath all Parochial Rights, as Churchwardens, *&c.* here this place may be Rated as a Parish towards the Poor. *Hutton's Rep. fo.* 93. *& M.* 3 *Car. B. R. Hilton & Pauls* case, *Cro.* 3. *Part. Rep.*

67. This Tax must be set upon the

Tenants and Occupiers of Lands, and not upon the Land-Lords living within or without the Parish; for the Tenant only is chargeable for the Land. *Bulstrod's 1 Part. Rep. fo.* 354.

68. The Person, having a full Tenth Part of the Profits of the place, may be rated to a Tenth Part. *Resol. Judges.* 1633. *Sect.* 32.

69 He that doth occupy Lands in his own hands, lying in several Parishes, he must be charged in every Parish for his Land lying therein only according to the proportion thereof, and no more, but for his personal Estate it seems reasonable he should be charged for it in the place where his person is; All Lands Ancients Demeasen Guildable, and Copyhold are to be charged with these Rates, which ought to be according to the value, or by the pound, and not according to the quantity. *Sed consuetudo tollit Legem.*

70. The Rate for Stock or Goods is thought reasonable to be set after the proportion of Lands (*viz.*) an 100 *l.* in Stock to be rated after 5 or 6. pound a year in Land.

71. Note, That in some special cases

a

a man may be rated beyond his ability, as where one brings a charge upon a Pariſh; or under any pretence brings in a man that may be chargeable in a Pariſh, he may, if there be cauſe for this, be raiſed in his Rate to the full value of his Eſtate, and ſo was the opinion of Sir *Nicholas Hide*. *Dalton's J. P. ch.* 40. *fol.* 97.

72. Where the Inhabitants of any Pariſh are not able to relieve their Poor, any two Juſtices(*Quor. un.*) may tax other Pariſhes and places within the Hundred, yea, the whole hundred, if need require: and, where that is not ſufficient, the Juſtices in their Seſſions may tax the County in part, or wholly at their diſcretions. 43. *El. ch.* 2. *Wingate's Abr. Stat. Tit. Poor people.* 14 *Car.* 2. *ch.* 12.

73. If any perſons find themſelves agrieved in any Tax or other Act done by the Overſeers, or by the Juſtices of Peace, they are to be relieved at the Quarter Seſſions. *Dalt. J. P. ch.* 40. *fol.* 97. *Wingate's Abr. Stat. tit. Poor people.*

74. The Father, Grandfather, Mother, Grandmother, and Children of every poor perſon, ſhall be aſſeſſed to-

wards their Relief, as the Justices of the Peace in their Sessions of the Peace in the County where such Father, &c. dwells shall limit and appoint, in pain to forfeit 20s. a Month to the use of the Poor, to be levyed by distress and sale, as aforesaid, and for want of distress to be committed to Prison till the Forfeiture be paid. 43 *El. chap.* 2. *Wingate's Abr. Stat. tit. Poor people. Dalt. J. P. ch.* 40. *fo.* 98.

75. Head Officers in Cities and Corporate Towns, and Aldermen of *London*, have in their several Precincts like Authority that Justices of Peace have in their Counties, and no other Justices of Peace are to enter and intermeddle there. *Wingate's Abr. Stat. tit. Poor people.* 43 *El. ch.* 2.

76. If any Parish shall extend into two Counties, or part thereof to lie in any City or Corporate Town where they have Justices; then the Justices of every County, &c. are to intermeddle only within their own limits; and every of them respectively within their limits are to execute this Law concerning the nomination of Overseers, binding Apprentices, granting

Warrants

Warrants to levy Taxations, taking Accounts of Overseers, and committing such as refuse to account or to pay their Arrearages; and yet the Overseers shall without dividing themselves, execute their Office in all places within the said Parish, but shall give up Accounts to the Justices, or Head Officers of both places. *Wingate's Abr. Stat. Tit. Poor People. 43 El. ch. 2. Dalt. J. P. ch. 40. fo. 97, 98.*

77. These Officers within four dayes after the end of their year, and that other Officers are nominated, are to yield up a true account to two Justices (*Quor. unus*) of these things following, 1. What sums of mony they have received or rated, and not received? 2. What stock of Ware or Stuff is in their hands, or in the hands of any of the Poor? 3. What Apprentices they have put out, and bound according to the Statute? 4. What Poor they have set to work or releived? 5. What Poor they have suffered to wander and beg out of their Town, or in the Highways, or in their Town without their directions? 6. Whether they meet monthly to consider of the things be-

longing to their Officer? 7. Whether they made their Rates indifferently upon all men, according to their ability? 8. Whether they have endeavor'd to gather and levy such Assessments? 9. Whether they have neglected the Justices Warrants to them, or any of them directed for the levying of any forfeiture according to the *Stat.* 43 *El. ch.* 2. *Dalt. J. P. ch.* 40 *fo.* 26.

78. Now if the Churchwardens or Overseers, or any of them, shall refuse to make and yield a true and perfect Account to the said Justices, of all such money, and of all such stock, as aforesaid, any two Justices (*Quor. un.*) may commit them to the common Gaol, there to remain without Bayl till they have made a true Account, and satisfied and paid to the new Overseers so much of the said Sum or Stock, as upon the said Account shall be remaining in his or their hands, *&c.* And if they make a false Account, they may be bound over to the Assizes or Sessions, and there an Indictment may be preferred against them. *Dalton's J. P. chap.* 49. *fo.* 96.

79. Also if any of the Churchwardens

dens or Overſeers ſhall refuſe or deny to pay or deliver over to the new Overſeers the Arrearages (Sums of Money or Stock) which ſhall be in their hands, and due and behind upon their Account to be made, as aforeſaid, any two ſuch Juſtices of Peace may make their Warrant to the preſent or ſubſequent Churchwardens and Overſeers, or any of them to levy the ſame by diſtreſs and ſale of the Offenders Goods, rendring to the parties the overplus; and in default of ſuch diſtreſs any two Juſtices of the Peace may commit him or them to the Common Gaol, there to remain without Bayl, until payment or delivery of the ſaid Sum, Arrearages, and Stock be made. 43 *El. ch.* 2. *Dalton's J. P. ch.* 40. *fol.* 96.

80. If any ſuch Stock ſhall be in the hands of any of the Poor to work, and ſuch Poor ſhall refuſe to deliver the ſame, two ſuch Juſtices may make the like Warrant, to levy the ſame by diſtreſs, and for lack thereof may commit ſuch Offenders to the Gaol, as aforeſaid. *Dalt. J. P. ch.* 40. *fo.* 96.

81. And for theſe aforeſaid, and all other

other Negligences of the Churchwardens and Overseers, in the execution of their Office, about the Poor, &c. every of them for every default he makes, forfeits 20s. which default must be proved either by the Offenders own confession, or by Examination of Witnesses; and it is to be levyed by the new Churchwardens and Overseers, or one of them, by Warrant from two Justices, as aforesaid, by Distress and Sale of the Offenders Goods; and for want of Distress, two such Justices may commit Offenders to the Gaol, there to remain without Bail, till the said Forfeitures shall be paid, which said Forfeitures are to be imployed to the use of the poor of the same Parish. *Dalt. 7. P. ch. 40. fo. 97. 43. Eliz. ch. 2.*

Their duty in suppressing Conventicles; See here *fol* 34.

FINIS.

A GUIDE FOR SURVEYORS OF *High-wayes* and *Bridges*.

CHAP. I.

Of the Choice of these Officers, how many Sorts of wayes there are, with some few General Cases concerning High-wayes.

1. THese Supravisors or Surveyors of the High-ways are Officers yearly chosen by the Constables and Churchwardens of every Parish: and, by the 14 *Car.* 2. the Churchwardens, Constables, or Tything-

Tythingmen of every Parish, Town or Hamlet, for the time being, are upon Monday or Tuesday in *Easter* week, with the advice of the major part of the Inhabitants to choose two or more sufficient Inhabitants of the Parish, Town, or Hamlet, to be Surveyors of the High-ways for the year following, and they are to give notice thereof in writing to the persons chosen next Sunday after; and for default of such choyce, the Constables, Churchwardens, and Inhabitants of every Parish, Town or Hamlet, shall forfeit and lose *5 l. 14 Car. 2. ch. 6.*

2. And after choyce made of these Officers, as aforesaid, and notice given them, they are forthwith to take the Office upon them, in pain to forfeit 20 *s.* 2, 3 *P. M. ch.* 8. *Wingate's Abr. Stat. Tit. High ways.*

3. The Constables and Churchwardens are then also to appoint six dayes betwixt then an Midsummer, to be set apart for the amendment of the High-ways, and must give publick notice thereof in the Church the next Sunday after *Easter.* 5 *El. ch.* 13. 23 *P. M. ch.* 8. *Wingate's Abr. Stat. Tit. High-ways.*

4. Note

4. Note, that there are three kinds of wayes, to wit) first a Footway, called *Iter quod jus eundi, vel ambulandi hominis.* Secondly, a Foot way, and an Horseway, called *actus ab agendo,* and this vulgarly is called a Pack or Drift way, and is both Foot way and Horse way. Thirdly, a Cart way, *&c.* called *Via* or *Aditus,* and this containeth the other two, and a Cart way also) for this is *jus eundi, vehendi & vehiculum & jumentum ducendi*; and this is twofold, to wit, *Via Regia,* the Kings High-way for all men; *& communis Strata,* belonging to a City or Town, or between Neighbours. *Dalt. J.P. ch. 26. fo. 67.*

5. Note, That the Kings High-way (or *via Regia*) leading either to the Market, or from Town to Town, the Freehold and soil thereof, and the interest of all Trees, and other such Profits thereupon growing, do belong to the Lord of the Soil, or the Lord of the Mannor; and therefore such Lords are chargeable to cut down the Trees and Bushes growing in such High-wayes; and it is called the Kings High-way, for that the King at all times hath therein passage for Himself and his People

People and may punish all Nusances therein, though otherwise the Interest be in the Lord to bring his Action for digging therein, or other like Trespass there done. *Dalt. J. P. ch.* 26. *fo.* 68. and see *Rolls Cases*, 1. *part. fo.* 392. 2 *E.* 4. 9 8. *E.* 4. 9 17 *E.* 3. *fo.* 43. *Bro. Chemine*, 10, 11. *& Leet.* 3. 27 *H.* 6. *fo.* 9. 8. *H.* 7 *fo.* 5.

6. Generally, the owner of the Soil on both sides of the way shall have the Trees growing in the way: But the Lord of a Rape, within which there are Ten-Mannors, may prescribe to have all the Trees growing within any High-way within such Rape, although the Mannor or Soil adjoining belong to another person, for the usage and taking of the Trees is a good badge of Ownership. *P.* 11 *Jac. B. R.* betwen Sir *Tho. Bellom*, & *Wiat*, & *Blake*. *Rolls Cases* 1. *part. fo.* 392.

7. Where any person shall inclose any part of the High-way, such person shall be charged to amend the High-way next adjoyning to the said Inclosure. And if one man have Inclosed on one side, and another man on the other side, they shall be both charged to mend the

the same way. *Dalt. J. P. ch. 26. fo. 69.* and see *Tr. 10 Car. 1. B. R.* Sir *Edw. Duncomb's* case. *Cro. 3 part. Rep. & 6 Jac.* & *19 Jac.* so Resolved. *Rolls Cases, 1 part. fo. 390.*

8. But otherwise generally High-ways must be sufficiently amended at the charge of the whole Town: And it is not enough for the Inhabitants to do their full six daies work yearly, except their wayes be all well and sufficiently repaired thereby; For, if all their said wayes be not sufficiently amended, the whole Town may be Indicted therefore; and if Six dayes work in the year will not serve to amend them, the Surveyors may, yea, must appoint more daies. *Dalt. J. P. ch. 26. fo. 69. 14 Car. 2. ch. 6.*

9. The owner of Lands, if he be not the occupier thereof, ought not to be charged towards the repair of the common High-wayes; but the Tenant who occupies the Lands is to be charged. *Hil. 11 Car. 1. Br.* in one *Foster's* case, *per Curiam. Rolls Cases, 1 part. fo. 390.*

CHAP.

CHAP. II.

The Duty of the Surveyors about setting and calling the Parishioners to the Common days works for the High-ways, and about taking and digging for Gravel, Chalk, Sand, &c. See *fol.* 58, 59.

10. THese Officers are to see that the Parishioners do their work on the days appointed, and that according to these Rules following, *viz.* every person having in his own Occupation a Plough land in Tillage or in Pasture in the same Parish; or keeping there a Plough or Draught, shall find and send on every day to the place appointed by the Surveyors, one Wayn or Cart provided, after the fashion of the Country, with Oxen, *&c.* fit for the carriage, and with necessary Tools fit for the work, and with two able men, who are there to do such work with their Waynes, *&c.* as they shall be appointed (by the Surveyors) by the space of eight hours every of the said six days, on pain of 10 *s.* every day default is made, 2, 3 *P. & M. ch.* 8. *Rast.* 199. *Lamb.*

Lamb. 459 *Wingate's Abr. Stat. Tit. High-ways, Dalt. J. P. ch.* 26. *fo.* 68.

11. And every other Houſholder, Cottager, and Labourer of the Pariſh, Town, *&c.* (able to labour and being no hired Servant by the year) muſt by himſelf, or ſome other able man, be then and there ready to work every of the ſaid ſix days, by the ſpace of eight hours, as aforeſaid, where they ſhall be appointed by the Surveyors, under pain to forfeit 12 *d.* for every day they make default. 2, 3. *P. M. chap.* 8.

12. Note, that all perſons being chargeable but as Cottagers by the 2, & 3, *P. M.* yet if they be in Subſidy 5 *l.* in Goods, or 40 ſhillings in Lands, or above, they muſt find two able men to work every of the ſaid ſix days. 18 *El. ch.* 9. *Wingate's Abr. Stat. Tit. High-wayes. Dalt. J. P. ch.* 26. *fo.* 68.

12. If any of the Carriages ſhall not be thought needful by the ſaid Surveyors upon any of the ſaid days, they may appoint inſtead of a Team, two able men to work, as aforeſaid, who ſhall not fail in pain that the party that ſhould ſend them ſhall forfeit 12 pence for every day that either of them

them makes Defaul. *Wingate's Abr. Stat. Tit. High-ways* 2. 3. *P. M. ch.* 8. *Dalt. J. P. ch.* 26. *fo.* 68.

13. He that shall occupy a Plowland in Tillage or Pasture, lying in several Parishes shall be chargeble only in the Parish where he dwelleth, and he that occupieth several Plowlands in several Parishes, shall be charged in each Town or Parish where such Land lyeth (to wit) to find in each Town or Parish one Cart furnished, as aforesaid, though he be no Inhabitant there. 18 *El. ch.* 9. *Dalt. J. P. ch.* 26. *fo.* 68.

14. Now for the further openning of these things, note, that it is said that a Plow Land is not of any certain content, but ordinarily it is so much as one Plough may Plough in one year, which in some Countries is more, and in some less, according to the heavinesse of the Soil. *Co.* 9. *Rep. fo.* 124. *Co. on Lit. fo.* 69. *& vide Lamb. verb. Idim.* 35 *H.* 6. *fo.* 29.

15. And note, That a Plow Land or Carve of Land may contain House, Meadow, Pasture, and Wood: And, if one have so much of this as will keep a Plough and yield Tillage for it, if part

part of it were eared, in this Case, it seems he is to send his Plough. *vide Co. 4. Lib. Rep. fo. 37. b. & 9. Rep.* 122.

16. He that hath a Plough Land, and no Plough, but doth suffer his Land to lie fresh, yet he is to find Plough for this work, and so it hath been agreed by the Judges. *Mich.* 21, *Jac. Dalt. J. P. ch.* 26. *fo.* 72.

17. He that keepeth a Plough or Draught for carriage, although he occupieth little or no Land, but carrieth or plougheth for other men, yet it seems he is to send his Cart to the High-ways, and if a Man keep only two Horses and a Cart for his own business, in this case it seems he is to come with his Cart and two Horses, with a man to manage them. *Vide Dalt. J. P. ch.* 6. *fo.* 72.

18. It is held by some, that so many Ploughs or Draughts men have, and use frequently about their own business in Summer, so many they are to bring with them to the High-ways; so that if a man have one Plough and five or six Horses, and shall plough seven or eight score Acres of Land, and shall usually go in the Summer time with

two

two Carts or Draughts; in this case, it seems he is to come with two Carts or Draughts to this Service; And he that occupieth 40 or 50 Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart. *Vide Dalt. 7. P. ch. 26. fo. 72.*

19. Note, That an Indictment by the Common Law may be brought against any Parish, for not repairing their High-ways, and so they are bound to make them good at their peril; and if Six days will not serve, the Surveyors may appoint more, and charge all persons within their limits, who are chargeable by Law, to come to the work, and if he who is to send a Team neglect, he forfeits 10*s.* and the labourer that neglects to come forfeits 18*d.* for every day, but then by 14 *Car.* 2. *ch.* 6. the Surveyors are to pay them for their work for all the dayes above six days, according to the Rates of the Country; and if they cannot agree, the next Justice of Peace living out of the Parish is to determine the business between them. 14 *Car.* 2. *ch.* 6.

20. These Officers may, if they see cause,

cause, for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken stones already digged, of any mans Quarry lying within the same Parish without leave of the owner, as they shall think needful, or gather the loose stones lying dispersed in any mans grounds; But they may not without Licence dig in any mans Quarry for new stones, nor take the great stones already digged; and if there be no such Rubbish to be found in any man's Quarry within the said Parish, then may they enter into any mans several ground within the Parish, lying near the place where the wayes are decayed, and there (if they see any hopes of finding materials fit for the Reparation thereof) without leave of the owner, they may dig for Sand, Stones, Gravel, &c. so that it be not in the Houses, Gardens, Orchards, or Meadows of any man; for they are not to come there without Licence of the owner, and in such place where they may dig without leave, they are not to make a pit above ten yards in breadth or length; and they are to take care that the place be filled up again

gain at the charge of the Parish within one month after, upon pain to forfeit five marks to the owner of the ground to be recovered by Action of Debt, and this is by the 5 *El. ch.* 31.

21. The same power also is granted to Surveyors by the 14 *Car.* 2. *ch.* 6. to dig for Gravel, Chalk, Sand, Stones, &c. in any man's ground in the Parish next adjoyning to the place where the wayes are in decay, if there be not sufficient in the same Parish; Provided it be not in the House, Garden, Orchard, Court, Yard, Park with Deer in it, or in the Meadow of such party; and this they may do without paying any thing for the same Sand, Gravel, &c. only Dammages to the party for the carriage of the same over his Grass, &c. and the pits and holes are to be filled up in such manner, and under such Penalties as are prescribed in the 5 *El.* in the Section, next before shewed. 14 *Car.* 2. *ch.* 6.

CHAP.

CHAP. III.

The Surveyors Duty about cutting down Bushes, Trees, and Scouring of Ditches in the High wayes; and also touching Presentments and Inquiries about Defaults passing of Accounts, Travelling of Waggons, Wayns, &c.

22. IF the owner of the Grounds next adjoyning to the High-ways do not keep their Hedges low, and cut down their Trees and Bushes growing in the same ways, they forfeit ten shillings, *Wingate's Abr. Stat. Tit. High-ways.* 5 *El. ch.* 13. 8 *El. ch.* 10.

23. And he that scowrs not his Ditches in the ground next adjoyning to the ground that is next the High-way, to the end the water may have the better passage out of the High-way, shall forfeit 12 pence for every Rod so left unscowred. 18 *El. ch.* 10. *Wingate ubi supra.*

24. If any scowr his Ditch by the High way side, and throw the scowring thereof into the High-way, and suffer it to lie there six months, he for-

feits for every load thereof 12 pence; and the Surveyors are to make Sluces where such Banks have been heretofore made, for carrying away the water out of the High-way. 18 *El. ch.* 10.

25. Every Surveyor may cause any Water-course or Spring of Water being in the High-way, (within their Parish) to be turned into another mans several Ditch or Ground next adjoyning to the said way, in such manner as by the discretion of the said Surveyor shall be thought meet. *Dalt. J. P. ch.* 26. *fo.* 70.

26. Note, That the Forfeitures of the Act of 18 *Eliz.* 10. must be levyed by the Surveyors for the time being (by Warrant from the Justices before whom the party shall be convicted) by Distress and Sale of Goods, which forfeitures are to be employed towards the amendment of High-ways; and if the Surveyors neglect to do it within one year after the offence committed, then the Constables and Church-wardens by like Warrant may do it, 18 *El. ch.* 10. *Wingate's Abr. Stat. Tit. High-ways.*

27. The

27. The Surveyors or one of them are to present to the next Justice of Peace every default upon the 2, & 3, *P. & M. ch.* 8 & 5. *El. ch.* 13. within one month after it shall be made, in pain of 40 *s.* and the Justice is in pain of 5 *l.* to certifie the same at the next Quarter Sessions, where the Justices have power to inquire of the Default, and shall set such Fine upon the Delinquents, as they or two of them (*Quor. unus*) shall think fit. 5 *El. ch.* 13. *Dalt. J.P. ch.* 26. *fo.* 70.

28. Note, that the Presentment of a Justice of Peace in Sessions, upon his own knowledge, shall be a good Conviction, whereupon the Justices in Sessions, or any two of them (*Quor. unus*) may assess a Fine, as well as upon a verdict of Twelve men; but in this case the Delinquent shall be admitted to his Teaverse as in other cases. 5 *El. ch* 31. *vide Rest al.* 199.

29. The defaults and offences upon these *Stat.* 2 & 3 *P. M.* 5 *El.* & 18. *Eliz.* are inquirable by the Justices of Peace in their Sessions, or by Stewards in Leets, either of which have power to set Fines upon Offenders at their

diſcretions; of which Fines Indented, Eſtreats (in the Seſſions under the Hand and Seal of the Clerk of the Peace, in the Leet under the Hand and Seal of the Steward) ſhall be delivered within ſix weeks after *Michaelmas*, one part of the Eſtreate to the Bayliff or High Conſtable of the Liberty, and the other part to the Conſtables and Churchwardens of the Pariſh where the Offenders live. 2, 3 *P. M. ch.* 8. 5 *Eliz. chap.* 13, 18. *Wingate's Abr. Stat. Tit. High-ways.*

30. And theſe Eſtreats ſhall be ſufficient Warrant for the Bayliff or chief Conſtable of the Liberty to levy the ſaid Offences by way of Diſtreſs; and if no Diſtreſs can be found, or the party do not pay the Fine within 20 dayes after lawful demand thereof, he or they ſhall forfeit double ſo much; all which Fines and Forfeitures are to be imployed and beſtowed towards the amendment of the High-ways in the Pariſh where the offences are committed. *Wingate's Abr. Stat. Tit. High ways*, 2, 3 *P. M. ch.* 8.

31. The Bayliff, or High Conſtable, ſhall yearly betwixt the firſt of *March* and

and last of *April*, render an Account unto the Constables and Churchwardens, who have the other parts of the Estreats of the Fines, of what mony they have received, in pain of 40 shillings; and the said Constables and Churchwardens have power to call the Bayliff or High Constable before two or more Justices of the Peace (*Quorum*) to pass his Account, who have power to commit him, until he have satisfied all the Arrearages by him received, save 8 *d.* in the pound for his own Fee, and 12 *d.* in the pound for the Clerk of the Peace, or Steward of the Leet; and in this case the succeeding Constables and Churchwardens have the same Power as their Predecessors had. 2, 3 *P. M. ch.* 8.

32. Two Justices of the Peace by the *Stat.* 18 *El.* may take Accounts of the Surveyors of the ways, and of the petty Constables and Churchwardens, for such Forfeitures (within that Statute) as they have Levyed. 18 *El. ch.* 10. *Dalt. J. P. ch.* 26. *fo.* 71.

33. By the 14 *Car.* 2. *ch.* 6. Every person elected a Surveyor of the High-ways, shall within one month after his

year expired yield up to the Inhabitants of the Parish, Town, or Hamlet, at some publick meeting appointed by the Inhabitants, a perfect Account of all monies he hath received and paid within the year, by reason of his said Office, and of whom, what sum, and to whom he paid the same, what monies are in Arrear for Fines, Forfeitures, Penalties, *&c.* and if any overplus be in his hands, he shall turn the same to the next Surveyor for the use of the Parish, Town, or Hamlet to be disbursed in and about the Highwayes the year following. And if the Surveyor shall not make such Account and payment, then two Justices near the Parish, upon complaint may examine the business upon Oath, and upon default found in the Surveyor, they may commit him to the Gaol of the County, City, *&c.* there to remain till he have made a true Account and payment. 14 *Car.* 2. *ch.* 6.

34. All Justices of Assize, *Oyer* and *Terminer* and Justices of Peace are impowered to hear and determine all matters concerning Charitable Gifts, for the amending and keeping in Repair any

any common High-wayes, Pavements, Streets, *&c.* within their Commiſſon and to make order for the due Imployment of ſuch Gifts (except the Gift be made to the uſe of any Colledge, Hall, Free School or Hoſpital, who have proper Viſitors of their own) and to determine all offences and defects in Surveyors concerning the ſame; and in caſe any perſon be agrieved by ſuch order, he may appeal to the Court of Chancery, as in caſe of a Decree made upon the Statute of *Charitable Uſes.* 14 *Car.* 2. *chap.* 6.

35. No Travelling Wain, Waggon, Cart, or Carriage, wherein any Goods, Burthens, or Wares ſhall be carried or drawn for hire (other than ſuch Carts and Carriages, as are imployed about Husbandry, and managing of Lands, and in carrying of Hay, Straw, Corn unthreſhed, Coal, Chalk, Timber for Shipping, materials for building, Stones of all ſorts, or ſuch Ammunition or Artillery as ſhall be for his Majeſties Service) ſhall at any one time Travel, be drawn, or go in any publick or common High way with above 7 Horſe Beaſts, whereof ſix ſhall

draw in pairs, nor with above 8 Oxen, or six Oxen and two Horses; nor shall at any time carry above 2000 weight between the first of *October*, and the first of *May* (except such particulars as aboveſaid) nor above 3000 weight between the first of *May* and the first of *October*; nor above five quarters of Wheat, Meal, Meſline, Rye, Peaſe, Beans, Tares, nor above eight quarters of Barly, Malt, or Oats, nor ſhall any Waggon, Wain, or Carriage, be imployed for the ſaid uſes, the wheels whereof are leſs in breadth than four Inches in the Tyre, upon pain every owner of ſuch Waggon, Wain, or Carriage, Horſe, Beaſts, or Oxen, ſhall for every of the ſaid offences forfeit 40 ſhillings, to be divided into three equal parts, one to the Surveyors of the High wayes where any of the offences ſhall be committed towards the repair of the High-wayes of the Pariſh there, one other part to the Overſeers of the Poor of the Pariſh where the offence is committed for the Releif of the Poor there, and one other part to him that ſhall diſcover and proſecute for every of the ſaid offences;

offences; The penalties to be levyed by Diſtreſs of all or any the Horſe, Beaſts, or Oxen, and to be diſtributed as aforeſaid, by the Conſtables, Surveyors of the High-ways, and Overſeers of the Poor; and in caſe the penalties be not paid within three days after Diſtreſs, then the ſame to be ſold, rendring the overplus, the charges of keeping and ſelling firſt deducted. 14 *Car.* 2. *ch.* 6.

36. Note, There are ſeveral Statutes which concern particular Highways, in which theſe Surveyors are little concerned; I ſhall therefore only name the Statutes, and they who deſire to be further informed therein, may look the Statutes at large.

37. *Stat.* 39 *El. ch.* 19. for repairing the High-ways in the Wild of *Suſſex*, *Surrey* and *Kent*, uſed for Iron Works. *Stat.* 37 *H.*8. *ch.*3. For *Huntington-Lane* near to *Cheſter*: *Stat.* 14 *H.* 8. *ch.*6. & 26 *H.* 8. *ch.* 7.. For laying out new High-ways in the Wild of *Kent* or *Suſſex*, *Stat.* 1. *M. Par.* 2. *ch.* 5. For the Cawſey between *Dorcheſter* and *Sherborn*. *Stat.* 18. *El. ch.* 10. about the King's Ferry in *Kent*.

CHAP. IV.

Some Heads of the Stat. 14 Car. 2. ch. 2. *concerning the Wayes, Sewers, Pavements,* &c. *in* London, *and the Scavengers Office.*

38. FOr the inlargement of the High-ways, Streets, Pavements, Gutters and Sewers in and about *London*; these things are to be known, that there are Commissioners to be appointed under the King's Great Seal; any Five or more of which Commissioners may direct and order the pulling down and removing of Nusances and Incroachments, and the inlarging, altering, new making or cleansing of Vaults, Sinks, and Common Sewers, and may inlarge or straiten the passages as they see cause, according to the Limitations laid down in the said Act. 14 *Car.* 2. *ch.* 2.

39. For the raising of money for the Commissioners to effect their work with, they are to Licence 400 *Hackney* Coaches and no more, every of which is to pay five pounds *per annum* to the Com-

Commissioners, and every load of Hay is to pay six pence, and every Cart load of Straw two pence every time they stand upon the new paved Streets about the *Mews*, &c. mentioned in the Act, to the Commissioners or to such as they shall appoint. 14 *Car.* 2. *ch.* 2.

40. The Commissioners also are to order and direct the Scavengers, and such like Officers and others, for the carrying away of Filth and Dirt in the Streets; and every Housholder in *London*, *Westminster*, Borrough of *Southwark*, and places adjacent, are to sweep and cleanse the Streets, Lanes, Allies, and publick places, before their houses, twice every week (to wit) Wednesdays and Saturdays, and make it ready for the Scavenger to carry away, on pain of 3 *s.* 4 *d.* for every neglect. 13 *Car.* 2. *ch.* 2.

41. And no person whatsoever, upon pain of five shillings, is to throw any Filth, Dirth, Ashes, or noysom thing into the Streets, Lanes, Allies, or against the Walls of any Church or Churchyard, or other Houses, nor throw the same into any Vault or Sink; but they are to keep the same in their Houses;

until

until the Scavenger come, and then they are to carry it out to him, or otherwise put it in his Cart, upon pain to forfeit for every offence twenty shillings. 14 *Car.* 2. *ch.*2.

42. None are to hoop, wash, or cleanse any Pipe, Barrels, or other Casks or Vessels, in any of the Streets, Lanes or Passages aforesaid, nor set out any empty Coaches to make or mend, or rough Timber or Stones to be sawn or wrought in the Streets, on pain of twenty shillings for every offence; and every Housholder is to repair and keep paved the Streets, Lanes, *&c.* before his House unto the Channel or middle of the same Street, upon pain of twenty shillings for every Rod, and after that proportion for a less quantity for every Default; and twenty shillings *per* week for every week after, till it shall be well paved and amended: such Streets as have been otherwise repaired are to keep their old custom and every Housholder also, whose House adjoins next the Street is to hang out his Light from *Michaelmas* till *Lady* day, from such time as it begins to grow dark, till nine of the clock.

clock in the Evening, upon pain of 12 *d.* for every default. 14 *Car.* 2. *ch.* 2.

43. Every Justice of either Bench, Barons of the Exchequer, or Justices of Peace in the places aforesaid, within their several Limits, may upon their own knowledge, or view, confession of the party, or proof of one Witness upon Oath convict any person, *&c.* of the offences aforesaid, whereby they shall incur the penalties aforesaid, one moiety to the repairing and cleansing of the Street, *&c.* the other to the Discoverer; but in case the Justice himself convict the party upon knowledge or view of himself, then all the penalty is to be imployed for the repairing of the Street or place where the offender lives: and these Forfeitures are to be levyed by Distress and Sale of the Offenders Goods by Warrant under the Hand and Seal of any such Justice, *&c.* rendring the Overplus to the party, and for Default of Distress or Non-payment within six days after demand, or notice in writing left at the Offenders dwelling house by the Constable or other Officer, the Offender (not being a Peer of the Realm) may by such

such Justice be committed to the Common Gaol, there to remain till payment. 14 *Car.* 2. *ch.* 2.

44. Within *London* and the Liberties thereof, the Scavengers, Rakers, and such like Officers are to be elected, and such Payments made by the Parishioners to them for cleansing the Streets, as hath been used by custom; and in *Westminster* also they are to observe their customs for Election and Payments, as aforesaid, and in all other Parishes and places upon every Tuesday or Wednesday in *Easter*-week the Constables, Churchwardens and Overseers of the Poor, and Surveyors of the High-ways of every Parish aforesaid, giving notice or calling together the Inhabitants of the Parish that have born such Office they, or the greater number of them shall appoint two Tradesmen of their Parishes to be Scavengers for the Streets, *&c.* of each Ward for that year following; which person being appointed and confirmed under the hands of two Justices of Peace, within their Limits, *&c.* are within seven dayes after to take the Office upon them, on pain of twenty pounds

pounds upon every Refuſer; and if after this, others be choſen, and refuſe, as aforeſaid, they are to ſuffer the like penalty: which penalties are to go towards the repairing of the Streets of the Pariſh where, *&c.* to be levyed by Diſtreſs and Sale of the Offenders Goods, by Warrant from any Juſtice of Peace within the limits, *&c.* directed to the Conſtables, or other Officers, or any two of them, rendring the overplus to the owners; and for want of Diſtreſs or Non-payment ſix days after demand, the Offenders to be committed by any ſuch Juſtice to the Common Gaol, there to remain till payment. *14 Car. 2. ch. 2.*

45. Within twenty dayes after Election and confirmation, as aforeſaid, the Conſtables and other Officers and Inhabitants, as aforeſaid, or the greater number of them, ſhall ſet a Rate according to the pound Rate, to be impoſed upon the Inhabitants of the Pariſh, Ward, *&c.* for the year following, which being allowed and confirmed by two Juſtices of the Peace, of the place aforeſaid, reſpectively, ſhall be yearly paid by every Inhabitant, upon demand thereof,

thereof by the Beadle of the Parish, or other Officer appointed to collect the same, and in case of refusal, two such Justices may grant their Warrant to levy the same by Distress and Sale; and for Want of Distress, to imprison the Offender, as aforesaid (not being a Peer of the Realm) till payment be made. 14 *Car.* 2. *ch.* 2.

46. The Rakers and Scavengers every day in the week (except Sundays and Holydays) must bring Carts, Dung-pots, or other fitting carriages into the Streets within their respective Wards, Parishes, and Divisions, where such Carts, *&c.* can pass; and at and before their approach by a Bell, Clapper, or otherwise, shall make a loud noise, and give notice of their coming; and go into every Court, *&c.* where Carts cannot pass, and abide and stay there a convenient time, that all persons concerned may bring forth their respective Dust, Ashes, *&c.* to the said Carts, all which the said Rakers and Scavengers shall carry away on pain of 40 shillings, for every offence and neglect respectively. 14 *Car.* 2. *ch.* 2.

CHAP.

CHAP. V.

Some Particulars gather'd out of the Acts 15 Car. 2. *ch.* 1. *&* 16, 17 Car. 2. ch. 10. *about the Repair of the High Ways in the Northern-Post Road from* London *to* York, *&c.*

47. FOr the amendment of the ancient High-way and Post-road leading from *London* (for many miles in the County of *Hertford*, *Cambridge*, and *Huntington*) to *York*, and so into *Scotland*, and likewise from *London* into *Lincolnshire*, and from the City of *Norwich*, *St. Edmunds Bury*, and the Town of *Cambridge* to *London*; and from *London* to *Newmarket*, and so into *Norfolk* and *Suffolk* beginning at *Puckeridge* in *Hertfordshire*, and so to *Barley* in the same County, it is provided, as followeth.

48. The Justices of Peace at their *Easter* Sessions yearly, for the respective Counties aforesaid, from time to time are to nominate and appoint nine sufficient able persons, residing and inhabiting within the said several Counties, to be Surveyors of the several places

places in the wayes aforesaid, for the year then next following, the Justices for the County of *Hertford*, to appoint the Surveyors for the High-way, lying in the severall Towns and Parishes within the said County, and Justices for the Counties of *Cambridge* and *Huntington* respectively to do the like; and the Justices and these Officers are not to meddle out of their respective Countries: After the choyce of the Surveyors, the Justices are to give them notice in writing, and if they neglect or refuse the Office, the Justices at their Sessions may set any Fine under 10 pounds upon every such person so refusing or neglecting; and in case any one so chosen shall die, or shall be discharged of his Office, then any two or more Justices of the County, near to the High-way and places, may appoint some other fit person in his place, and give him notice thereof under their Hands and Seals; and if he refuse or neglect it, then to be under the same penalty, as the Refusers of them that were first elected. 15 *Car.* 2. *chap.* 1.

49. The Surveyors within a week after

ter notice given them of their choyce, having no lawful impediment to be allowed by the Justices that do choose them, are to meet in each of their Counties respectively, in some convenient place of each County appointed by the Justices at their Quarter Sessions, to view and survey the same wayes, and to consider what Reparations shall be needful, and they are in each County to provide Stones, Gravel, and other materials and necessaries for the work. 15 *Car.* 2. *ch.* 1.

50. Any three of these Surveyors for each County, being met together, as aforesaid, with the approbation of two or more Justices of the County living near to the High-wayes or places aforesaid, may appoint a Receiver or Collector of Toll, and such other Officers as they shall find necessary to carry on their work, for which a moderate allowance is to be given. 15 *Car.* 2. *ch.* 1.

51. Any three or more of the Surveyors are to appoint and require all the Inhabitants within three miles of the places aforesaid, and in the same County that are by the former

Laws

Laws of *P.* & *M.* and Queen *Elizabeth* chargeable to find Wain, Team, or Cart for the amending of the High-wayes, and other persons chargeable in person onely, to labour herein for three dayes in a week, so that it be not in Seed-time, Hay, or Corn-Harvest, to come or send their Wains, Carts, or Teams provided, as by Law they ought to do, for repair of the High-ways, and when they are come, to appoint them their several work and to pay them after the rate of the Country for their work; and if any difference be, two Justices of the Peace of the County are to end it; he that fails to send his Wain, *&c.* for every day forfeits ten shillings, and the Labourer refusing or neglecting for every day 18 pence, 15 *Car.* 2. *ch.* 1.

52. Any three or more of the Surveyors may appoint any to dig, take and carry away so much as they shall think needful of the Gravel; Chalk, Sand, or Stones out of the Waste or Common of any neighbouring Parish or place near adjoyning to the place in decay, without paying any thing for it; and if it be not there to be had, then they

they may take it out of any mans ſeveral ground (not being an Houſe, Garden, Orchard, Yard, or Park ſtored with Deer) in any Pariſh chargeable toward the repair of the ſaid High-way, giving only ſatisfaction to the owner of the ground for the damage he hath thereby, according as the Juſtices at any of their Quarter Seſſions ſhall ſet down, if any difference be: And they are with all ſpeed convenient to fill up and level ſuch pits as they ſhall make, or elſe to Rail them about, that they be not dangerous to Man or Beaſt. *15 Car. 2. ch. 1.*

53. The Surveyors are always at the Quarter Seſſions next after *Eaſter* to give in an Account under their Hands to the Juſtices of all the money they have received from the Collector, or Receiver of the Toll, and what they have laid out about the High ways, or in the execution of their Office; and if thay have any mony in their hands, they are to pay it to the Surveyors for the next year, or to their Treaſurer or Receiver; and then they are to have allowance for their pains; and if they ſhall not account and pay in the mony

in

in their hand, or if the Collector or Receiver of the Toll refuse to pay in the mony to the Surveyors upon Request, Then they respectively at any Quarter Sessions may be committed to Prison, till they do so account and pay in the mony, 15 *Car.* 2. *ch.* 1.

54. If the Justices at their Quarter Sessions make any Rate for the repair of these High-wayes, the Surveyors are to collect and receive it, and in case of refusal they or their Receivers and Collectors may distrain for it, and sell the Distress rendring the overplus to the owners, and they or their Receivers are to Receive all the Fines and Forfeitures named in the Act, and to imploy them towards the Repair of the High-wayes; they might also (with the consent of the Justices at their Quarter Sessions) borrow money to repair the said High-wayes, and ingage the Toll for it in their respective Counties, by Indenture under their Hands and Seals for any time under 9 years, for Security of the Repayment of the Mony borrowed with Interest, and therewith repay the same. 15 *Car.* 2. *ch.* 1.

55. The

55. The Collector of the Toll for these High-wayes to demand and receive Toll or Custom, for all the Horses, Coaches, Carts, Waggons, Droves, and Gangs of Cattel, that shall pass, be led, or driven in or through the Toll Gates at *Stilton* in *Huntingtonshire*, at *Arrington-Bridge* in *Cambridgshire*, and at *Wades-Mill* in *Hartfordshire*, after the proportion following: That is to say, for every Horse one penny, every Coach six pence, every Cart eight pence, every Waggon twelve pence, every score of Sheep or Lambs one half penny, and so proportionably for greater or lesser numbers; for every score of Hogs two pence, and so proportionably for greater or lesser numbers, not being under Five, for every score of Oxen or Neat Cattel five pence, and so proportionably for greater or lesser numbers; and if any refuse or neglect to pay, the Collector may distrain the Horse, Coach, Cart, Waggon, Oxen or other Cattel aforesaid, or any of them, and keep them till the Toll be paid, and damages for keeping the Distress. *15 Car. 2. ch. 1.* and see *16.* & *17. Car. 2. ch. 13.*

56. Note

56. Note That no Passenger is to pay twice in one day at the same place, neither is any Souldier in his March, or Post-rider, to pay Toll, and certain adjacent Towns also to the said places appointed for taking of Toll are exempted. See the Statute it self 15 *Car.* 2 *chap.* 1.

57. The Toll at *Stilton* and *Arrington* Bridge is to continue 11 years, to begin from the 7th of *July* in the 15th year of the King, if the ways be not well amended, and the monies borrowed paid in again, before the expiration of the said Term; and the Toll at *Wades* Mill is to continue for 21 years after the 11 years expired, if the ways be not adjudged to be well amended in the mean time, and all monies borrowed for that purpose, with the Interest thereof repaid again. 15 *Car.* 2. *ch.* 1. 16, & 17. *Car.* 2. *ch.* 10.

58. The Collector of the Toll at *Wades* Mill is to account weekly to the Receiver General, and the next Justice may give the Collector an Oath to make a true and perfect Account, and such Account is to be returned to the next Quarter Sessions for the County, by

by the Justice that gives the Oath. 16, & 17 *Car.* 2. *ch.* 10.

59. All persons who by Law are chargeable towards the repairing of the High-ways aforesaid, shall still remain so chargeable, by the 15 *Car.* 2. *ch.* 1. and shall also pay six pence in the pound yearly, according to the true value of their Estate, towards the repair of the said High-way, during the continuance of the Toll, which shall be paid to the Treasurer of the said Toll; and in default of payment six dayes after demand, the Surveyors are to distrain for it, and sell the distress, rendring the overplus to the owners if any be. 16, & 17 *Car.* 2. *ch.* 10.

60. The Receivers or Collectors of the Toll, that shall be in the Office at the end of the 11 years, if they upon their Account shall then have any mony in their hands, they are to bring the same to the Justices at their next Quarter Sessions, under pain to forfeit double so much, to be recovered by Distress and Sale of their Goods. 15 *Car.* 2. *ch.* 1.

CHAP. VI.

Several Cases about the Repairs of Bridges with Names of the Statutes which concern particular Bridges.

61. WHere a common Bridge in the King's High-way is in decay, and that it cannot be proved or known, who, nor what Lands are chargeable to the repairing thereof; in this case Four Justices of the Peace (whereof one to be of the *Quorum*) within the Shire or Riding, wherein such decayed Bridges be; and if they be in a City or Town Corporate, then four such Justices of Peace there, may, within the limits of their several Commissions, call before them the Constables, or two of the most honest Inhabitants of every Town and Parish within the Shire, Riding, City, or Town Corporate, wherein such Bridge or any parcel thereof shall happen to be and the Justices (upon the appearance of the Constables or other Inhabitants, and with their assents) may tax every Inhabitant in any such City, Town, or Parish

Parish within their limits, to such reasonable sum of mony as by their discretions they shall think convenient, aswell for the repairing of such Bridge, and also for the making and reparing of the High-wayes by the space of 300 Foot next adjoyning to the ends of any such Bridge. 22 *H.* 8. *ch.* 5. *Dalt.* 7. *P. ch.* 13. *fo.* 40. *Co.* 2. *Part. Inst. fo.* 701, 702.

62. But note, where the Franchise, City, or Bourrough, is a County of it self, and hath not four or more Justices of the Peace, whereof one or more are of the *Quorum*, in this case no other Justices of the Peace of any Shire or County have any power to meddle there by this Act, but such decay must be reformed by the Common law by such Remedies, as they were before the making of this Statute of 22. *H.* 8. *Co.* 2. *Part. Inst. fo.* 702.

63. And note, that this Taxation ought not to be made by the Justice, without the consent of the Constables or Inhabitants; nor by them without the Justices; and this Tax ought to be upon every Inhabitant in particular, and not to be set upon the Hundred,

Parish, Town, *&c.* for then one or few might be distrained upon for the whole. *Co.* 2. *Part Inst. fo.* 704.

64. After such Taxation made, as aforesaid, the said Justices of Peace shall cause the Names and Sums of every particular person so by them Taxed, to be written in a Roll indented in Parchment for every Hundred, and sealed with their Seals. *Co.* 2. *Part. Inst. fo.* 704. *Dalt. J. P. ch.* 13. *fo.* 40.

65. And the said Justices may make two Collectors of every Hundred, for the Collecting of all such sums of Mony, by the said Justices set and taxed, which Collectors receiving the one part of the Roll indented, have power thereby to collect all the Sums of Mony therein contained, and if refusal be made upon demand, then to distrain and sell such distress, rendring the overplus to the owner if any be. *Dalt. J. P. ch.* 13. *fo.* 40. 22 *H.* 8. *ch.* 5. *Co.* 2. *Part. Inst. fo.* 705.

66. The said Justices also are to appoint two Surveyors who shall see such decayed Bridges and Wayes repaired and amended from time to time as often as need shall require, to whose hands

hands the Collectors must pay the monies by them received. *Dalt. I. P. ch.* 13. *fo.* 40. 22 *H.* 8. *ch.* 5.

67. And the said Collectors and Surveyors, and their Executors and Administrators, and every of them shall from time to time make a true Account to the said Justices of Peace, of the Receipts, Payments, and Expences of the said Sums of Money; and, if any of them refuse so to do, then the said Justices of Peace, from time to time by their discretions, may make out Process against the said Collectors and Surveyors, their Executors and Administrators by Attachment, Precept, or Warrant, under their Hands and Seals, returnable at their General Sessions of the Peace, and the said Justices may allow such reasonable Costs and Charges to the said Surveyors and Collectors upon their Account, as to them shall seem convenient. 22 *H.* 8. *ch.* 5. *Dalt. I. P. ch.* 13. *fo.* 40.

68. If any such Bridge be wholly in a City, or other Corporate Town, the Inhabitants of the said City or Corporate Town must repair it; and where such Bridge lies out of such City or

Corporate Town, the same must be made by the Inhabitants of the Shire or Riding, within which the same Bridge shall be: and if part of the Bridge be in one Shire or Riding, City, or Corporate Town, and part in another, then every of them shall be charged to make and repaire such part as shall lie and be within their own limits. 22 *H.*8. *ch.*5. *Co.* 2. *Part. Inst. fo.*702. *Dalt. J. P. ch.*13. *fo.*41.

69. But otherwise no Village or Freeman shall be compelled to make any Bridge, but such as, of old time and by Right, they were wont to make. *Magna Charta, ch.*15.

70. By the Common Law some persons were bound to repair Bridges, *Ratione tenuræ suæ Terrarum*, &c. and this was binding, into whose hands soever the Estate did come; but they which have Lands on the one side, or on the other, or on both, are not bound in Common Right to repair the same: 44 *E.*3,31. 21 *E.*4.46. 5 *H.*7.3. *Crompt.* 186. 8 *H.*7.5 *b. Co.* 2. *Part. Inst. fo.*700.

71. If a man which holdeth 100 Acres of Land, ought to repair a Bridge by Tenure of the same, do alien 20 Acres

cres thereof to one man, and 10 Acres to another man, in such case every owner or occupier of such lands must be charged proportionably for their said Lands. *Reg. ft* 268. *a. F. N. B.* 235. *B. Co.* 2. *Part. Inst. fo.* 700.

72. Again, some by the Common Law were bound by Prescription to repair a Bridge, but herein there is a diversity between Bodies Politick or Corporate, Spiritual or Temporal, and natural persons; For Bodies Politick, *&c.* may be bound by usage and prescription only, because they are local, and have a perpetual succession, and never dye; but a natural person cannot be bound by the Act of his Ancestor, without Assets, or some profit to be taken therefore. 21 *E.* 4. *fo.* 38. *b.* 27. *Ass.* 8. *Crompt.* 187. *Co.* 2. *par. fo.* 700. *Dalt. J. P. ch.* 13. *fo.* 41.

73. By Common Right, Bridges are to be amended by the whole County, if it be not known who ought to do the same otherwise. *Pasch.* 10 *E.* 3. 28, 29. *Co.* 2. *Part Inst. fo.* 701. *Crompt.* 186. *b. Tr.* 10 *Car.* 1. the case of *Longford* Bridge. *Rolls Cases*, 1. *Part. fo.* 368. *& Cro. Rep.* 3. *part.* the same case.

74. If a man Erect a Mill for his own particular profit, and cut a new course for the water to come to it, and makes a new Bridge over the same, and the King's Subjects use to ride over the same as over a common Bridge; such Bridge ought to be repaired by him who hath the Mill, and not by the County, because he erected it for his own benefit. 8 *E.* 2. *B.R.* adjudged for *Bow* Bridge and *Channel* Bridge against the Priour of *Stratford. Rolls Cases*, 1. *Part. fo.* 368.

75. Such as are chargeable to repair a Bridge may enter upon any other man's Land or Soil adjoyning, and lay their Stone, Lime, Timber or other things necessary there for the repairing and amending thereof, and the owner of the Lands shall have no action therefore; for it is for the common profit: and the party that is chargeable to repair a Bridge, must also maintain the way at each end thereof (though the Soil be to another) and if the ends be broken by the Watercourse, he must follow the Watercourse, and repair the way, *&c. Crompt.* 186. *b.* 43. *Ass. Dalt. J. P. ch.* 13. *fo.* 42.

76. It

76. It is provided by the 14 *Car.* 2. *ch.* 6. That all Bridges ſhall have ſufficient Walls or Poſts, and Rails on each ſide thereof, four foot high at the leaſt, and that the ſame be from time to time ſufficiently kept and repaired. 14 *Car.* 2. *ch.* 6.

77. The Names of ſome Statutes for particular Bridges follow. 18 *H.* 6. *ch.* 28. for the making of *Burford* and *Culhamford* Bridge. 18 *El. ch.* 17, & 27 *El. ch.* 25. for the maintenance of *Rocheſter* Bridge. 18 *El. ch.* 20. for Repair of the Bridges within a mile of *Oxford.* 23 *El. ch.* 11. for the maintenance of the Bridges over the *Toſſe* in *Wales*, 39 *El. ch.* 23. for making and repairing of *Newport* and *Carlion* Bridges over the River *Uſk.* 39 *El. ch.* 24. For building and maintenance of a Bridge at *Wilton* upon *Wy* near *Roſs* in *Herefordſhire.* 43 *El. ch.* 16. for erecting and repairing *Eden* and *Presberck* Bridges in *Cumberland.* 3 *Jac. ch.* 23. for making and repairing *Chepſtow* Bridge. 14. *Car.* 2. *ch.* 6. for building and repairing *Laycock* and *Rey* Bridges in *Wiltſhire*, and *Stratford* Bridge in *Middleſex.*

By the *Stat.* 22 *Car.* 2. *ch.* 12. It is enacted, That the Surveyors and Orderers of the work of amendment of the High-ways shall be yearly chosen in Christmas-week, according to the *Stat.* 2. *&* 3. *P. & M. ch.* 8. Which persons so chosen shall take upon them that Office, and shall appoint six dayes for providing Stones, Gravel, and other Materials, and for working in the High-ways, having respect to the season of the year and the weather, and giving notice publickly some convenient time before the several days. At which days all persons liable to the said work shall attend and work: And the said Surveyors and Orderers shall make return of the Defaulters and every of them within one month, to some neighbouring Justice of the Peace of the same County.

FINIS.

A

GUIDE

FOR

TREASURERS

OF THE

County Stock, for the releif of Poor Maimed Souldiers and Mariners.

1. THese Treasurers are certain Officers appointed by the Justices of Peace, to have the charge of the Receipt and disbursement of money taxed and levyed upon the whole County yearly, for the releif of poor maimed Souldiers and Mariners; For the Justices of Peace are

are yearly at their Quarter Sessions, about *Easter*, to choose or appoint one or two persons (according to their discretions) of the County, for the taking and distributing of the Monies collected for the purposes aforesaid: And these Treasurers, by the words of the Statute, ought to be Subsidie men, of 10 pounds in Lands, or 15 pounds in Goods, (but it seems, if they be sufficient men, this is not stood upon) and these Officers are to continue in their Office one year, and new ones then to be chosen in their rooms. 43 *El. ch.* 3. *Wingate's Stat. Tit. Captains.*

2. Now for the raising of Mony for these Treasurers, the greater part of the Justices in their Quarter Sessions have power to charge every Parish within their limits towards a weekly Relief of Maimed Souldiers and Mariners, so that no Parish pay weekly above 10 pence, nor under two pence, nor any County, which consists of above 50 Parishes, pay above 6 pence one Parish with another, and this is by the 43 *El. ch.* 3. but it is provided further by the 14 *Car. 2. ch.* 9. that the

Justices

Justices may tax every Parish more than the Rates aboveſaid, ſo as it exceed not two ſhillings and ſix pence, nor be under three pence *per* week. And theſe ſums, thus taxed, muſt be aſſeſſed in every Pariſh by the Pariſhioners (or in their Default) by the Conſtables and Churchwardens, (or in their Default) by the next Juſtice or Juſtices of the Peace. 43 *El. ch.* 3.

3. And the Conſtables and Churchwardens have power to levy the Tax in every Pariſh, of every perſon refuſing to pay the ſame, by Diſtreſs and Sale of his Goods, rendring the overplus to the owner; and in the Conſtables and Churchwardens Default, the next adjoyning Juſtice may diſtrein for the ſame. 43 *El. ch.* 3. *Wingate's Stat. Tit. Captain. and Dalt. J. P. ch.* 53. *fo.* 135.

4. When the Tax is levyed, the Conſtables and Churchwardens are to deliver it quarterly (ten days before every Quarter Seſſions) to the High Conſtable of their Diviſion, who muſt deliver to the Treaſurers of the County, at the ſame Quarter Seſſions, all the ſame money, and if the Conſtables or

Church-

Churchwardens, their Executors, &c. fail in the payment to the High Conſtable within the time aforeſaid, then they are to forfeit 20 ſhillings; and if the High Conſtable fail to pay the Treaſurers every Seſſions, then he forfeits 40 ſhillings; which Forfeitures, as it ſeems, the Treaſurers may levy by Diſtreſs and Sale of the Offenders Goods, without any Warrant, rendring the overplus to the owner: and theſe Forfeitures are to go in Augmentation of the Treaſurers Stock. 43 *El. Ch.* 3.

5. The Maimed Souldier or Mariner which was preſt, ſhall repair (if he be able to Travel) to the Treaſurers of the County where he was preſt; if he were not preſt, then to the Treaſurers of the County where he was born, or where he laſt dwelt by the ſpace of three years, at his Election; but if he be not able to Travel, then to the Treaſurers of the County where he Lands; and he is to bring with him a Certificate under the Hand and Seal of the cheif Commander or of the Captain under whom he ſerved, containing the particular of his hurts and ſervi-

ces,

ces, which Certificate shall also be allowed by the Muster Master, or the Receiver General of the Rolls for the Muster, under one of their hands. 43 *El. ch.* 3.

6. Then upon such a Certificate, the Treasurers aforesaid may allow the party Releif to maintain him till the next Quarter Sessions, and then the major part of the Justices may allow him a Pension, which the Treasurers must pay him Quarterly, until it shall be revoked or altered by the said Justices; and this allowance is not to exceed 10 pounds *per ann.* to a common Souldier, nor 15 pounds to an Officer under a Lieutenant, nor 20 pounds to a Lieutenant. 43 *El. ch.* 3. *Wingate's Stat. Tit. Captains and Souldiers.*

7. Note, where Souldiers and Mariners arrive far from the place where they are to receive Releif, the Treasurers there shall give them Releif and a Testimonial whereby they may pass from Treasurer to Treasurer, until they shall come to the place required; and this shall be done upon the bare Certificate of the Commander and Captain, although they have not as yet obtain'd any

any allowance from the Muſter Maſter, or Receiver General of the Muſter Rolls. *Wingate's Stat. Tit. Captains and Souldiers.* 43 *El. ch.* 3.

8. If any Souldier or Mariner beg or counterfeit a Certificate, he ſhall be puniſhed as a common Rogue, and ſhall loſe his Penſion, if he have any. 43 *El. ch.* 3. *Wingate's ubi ſupra.*

9. When out of the County where the party was preſt, a fit Penſion cannot be ſatisfied, it ſhall then be ſupplied by the County where he was born, or where he laſt dwelt by the ſpace of three years. *Wingate's ubi ſupra.* 43 *El. ch.* 3.

10. By the 14 *Car.* 2. *ch.* 9. It is provided that every Officer, Souldier or Mariner maimed, indigent, aged or diſabled in body for work, in the Service of King *Charles* the firſt, or of his Majeſty that now is, during the late Wars, or which are ſo impoveriſhed by their ſufferings under any of the late uſurped Powers, as that they are deſtitute of any competent ſubſiſtence or livelyhood, and have continued faithful to their Truſt, and not deſerted the ſame, by taking up Arms againſt his

his late Majesty, or his Majesty that now is; or otherwise, is to repair to the place where he was last settled before he took up Arms,) with a Certificate of his Service and hurts received under the hand of his Captain or other Commissionated Officer) and there repair to the two next Justices, who upon examination of the truth of such Certificate (upon Oath of the Party and such Witness as he shall produce) may by Warrant unto the Treasurers, assign him Relief unto the next Quarter Sessions, to be holden for that County or Liberty; at which time a yearly Pension may be settled on him, which must not exceed 20 pounds to any one person, which Pension is to be with power of Revocation or Alteration; and in case where the Captain or Officer appointed to make such Certificate is dead, the Justices upon Request to them made in behalf of the party maimed, aged, indigent or disabled, as aforesaid, by persons of credit, are to give such Relief, as in cases of Examination, as aforesaid. 14 *Car.* 2. *Ch.* 9.

11. And touching the Widows and Or-

Orphans of such as dyed in the Service aforesaid, it is provided, That (over and beside such Relief as they shall gain by their labour and work, and what shall be allowed by the charity and benevolence of the Parish, Town, or Hamlet where they are setled) the Treasurers for the maimed Souldiers for such County shall allow such further Releif from time to time, as shall be adjudged meet by two next Justices of the Peace of such County; and the said Relief is to be paid out of the Surplusage of such Stock of Maintenance as shall remain in the hands of the said Treasurers, after such Pensions and Payment of them made; And of which surplusage and allowance made unto such Widows and Orphans, the said Treasurers shall give account from time to time, and the same distribute, as by the Justices shall be directed. 14 *Car.* 2. *ch.* 9.

12. The Treasurers are to Register all their Receipts and Disbursements, and must enter the Names of the Parties relieved into their Book, and also the Certificate, by vertue whereof the

the disbursements are made; and where they disallow of a Certificate, they are to set down the Reasons of their Refusal under the Certificate or on the back thereof. 43 *Eliz. ch.* 3. *Wingate's Stat. Tit. Captains and Souldiers.*

13. If any Treasurer wilfully refuse to give Relief in the cases aforesaid, the Justices of Peace in their Sessions may set a Fine upon him, which may be levyed by distress and sale of his Goods. *Wingate's ubi supra.* 43 *El. ch.* 3.

14. These Officers at the end of their year, within 10 dayes after *Easter* Sessions, are to give up a just account to the succeeding Treasurers of all their Receipts and Disbursements within the time of their Office; and then, if they have any money in their hands, they are to deliver it to their Successors; and if any such Officer, his Executors or Administrators shall not give up such Account within the time aforesaid, or shall be otherwise negligent in the Execution of his Office, The Justices at their Sessions may assess what fine they please upon him; so that it

it be not under five pounds, but what they please above five pounds upon him, his Executors or Administrators, *Wingate's ubi supra.* 43 *Eliz. ch.* 3.

15. In Corporations, the Justices there are to put this Action in Execution, and not the Justices of the County; This Act is not to prohibit the City of *London* to make a Tax if need require, differing from that above limited in this Act, so that no Parish pay above three shillings weekly, nor under 12 pence weekly, one Parish with another. 43 *El. ch.* 3.

FINIS.

A

GUIDE

FOR

TREASURERS

OF THE

County Stock, for the relief of Poor Priſoners in the *King's Bench* and *Marſhalſey*, and for Hoſpitals and Almſhouſes in their ſeveral Counties.

1. THeſe Officers are to be yearly choſen by the Juſtices at their Quarter Seſſions about *Eaſter*, and they muſt be two for

for every County, Riding, *&c.* and by the words of the Statute they ought to be Subsidy men, of 5 pound in Lands, or 10 pounds in Goods at the least, or near that value; and these Officers are to continue in their Office but one year; and then others to be chosen, and they are to have the charge of the Receipt and Disbursements of the mony taxed and levyed upon the whole County yearly, for the Relief of the Prisoners of the *King's Bench* and *Marshalsey*, and for the Relief of Hospitals and Almshouses within the same County. 43 *Eliz. ch.* 2.

2. And for this purpose the Justice of Peace of every County or Corporation, or the major part of them, at *Easter* Sessions yearly, or as often as they shall think fit, may rate every Parish at a certain sum to be paid weekly; but so as no Parish may pay more then six pence, nor less than half a peny, and one Parish with another, not above two pence through the whole County or Corporation, which sum so rated, the Constables and Churchwardens in every Parish, or any of them, (or in their default the next Justice

ſtice of Peace) have power to Aſſeſs, and to levy by diſtreſs and ſale of the Parties Goods, refuſing to pay, Rendring the overplus to the owners, and for Default of Diſtreſs, the ſaid Juſtice may commit the party to Priſon till it be paid. *Wingate's Stat. Tit. Poor.* 43 *El.* 12. *ch.* 2. *Dalt. J. P. chap.* 53. *fo.* 135.

3. And theſe ſums, collected and levyed, as aforeſaid, the Churchwardens or Conſtables of every Pariſh are to pay to the High Conſtable of that Diviſion ten dayes before every Seſſions, in pain that they or their Executors, *&c.* ſhall forfeit ten ſhillings; And the High Conſtable is to pay over the Sums received to the Treaſurers, or one of them, every Quarter Seſſions, in pain that he, his Executors, *&c.* ſhall forfeit 20 ſhillings; and theſe Forfeitures are to be levyed by the Treaſurers by diſtreſs and ſale of the Offenders Goods, rendring the overplus to the party offending, which Forfeitures are to be imployed by the Treaſures for the uſes aforeſaid. 43 *Eliz. ch.* 2. *Wingate's Stat. Tit. Poor.*

4. And

4. And such Sums as the Justices shall appoint for the *King's Bench* and *Marshalsey* (which must be 20 shillings yearly out of each County to each of them.) These Officers must pay over in convenient time to the Lord Chief Justice of *England*, and Knight Marshal for the time being, equally to be divided to the uses aforesaid, taking their Acquittances for the same, and in default of the said chief Justice, the next antientest Justice of the *King's Ben. Wingate ubi supra.* 43 *El. ch.* 2.

5. They are to pay yearly also, by a Quarterly Payment, such sums of mony as shall be set down by the Justices of Peace at their Quarter Sessions, unto the Masters and Governours of the Houses of Correction; the which if they do refuse or neglect to do, the same Masters or Governours (without any Warrant) may levy the same of the Goods of the said Treasurers by Distress and Sale, rendring them the overplus. 7 *Jac. ch.* 4.

6. And the Surplusage of the mony, by the Treasurers received, they must distribute and bestow for the Relief of the

the poor Hospitals of the same County, and for the Releif of those that have sustained losses by Fire, Water, the Sea, or other Casualties, according to the discretion of the Justices of the Peace of the same County. *Wingate's Stat. Tit. Poor.* 43 *Eliz. chap.* 2.

7. These Officers at the end of their year at *Easter* Sessions, are to give an account to the succeeding Treasurers, of all their Receipts and Disbursments in the time of their Office; And then also, if they have any money in their hands, they are to deliver up the same to the succeeding Treasurers. And if any Treasurer so elected as before, shall wilfully refuse to take upon him the said Office of Treasurership, or to distribute and give Relief, or to account according to that order the Justices shall set down, the Justices may Fine them at their Sessions, which Fine must not be under three pounds. 43 *Eliz. ch.* 2.

FINIS.

A GUIDE FOR MASTERS OF THE House of Correction, and Governours of the Corporations, or Work-Houses in *London*, *Westminster*, &c.

1. THE Governour or Master of the House of Correction is an Officer appointed by the Justices of Peace at their Quarter Sessions, to have the Oversight and Government of the House of Correction within their County or Riding, of whom the Justices are to take sufficient Security for the continuance and

performance of the Service belonging to his Office; and the Justices are to set down what allowance they shall have for their pains, (which may be charged upon the County) and for the Relief of such as shall happen to be weak and sick in their custody, and for the Stock to set on work such persons as shall be committed thither; and they may set down other orders concerning the same according to their discretions; and the mony allowed to these Officers by the Justices, as aforesaid, is to be paid Quarterly before hand by the Treasurers of the County for the Relief of the Prisoners in the *King's Bench* and *Marshalsey*; and if the Treasurers refuse or neglect to pay it, the Master of the House of Correction may levy the same, or so much thereof as shall be unpaid, upon the Treasurers Account, by Distress and Sale of their Goods, rendring back the overplus of the money. 39 *El. ch.* 4. 7 *Jac. ch.* 4.

2. Now the Office and Duty of this Officer consists in these things following, *viz.* To look well to the same House, and the backside thereof, and to all the Implements and Goods he doth find

find, there, and to look to all such lewd persons as he finds there at his entrance, and to receive all such Rogues, Vagabonds, and idle or disorderly persons, as by any of the Justices of Peace shall be sent thither. *Co. 2. Part. Inst. fo. 731.*

3. He is also to keep safely all such as are committed to his custody, and not to suffer them to wander abroad about the Country, or to escape away without order of Justices. *7 Jac. ch. 4. Co. 2. Part. Inst. fo. 734.*

4. He is also to see and take care, that amongst the persons committed to his charge, if there be any sick, or otherwise impotent, that stands in need of Relief, that he do relieve them, according to their necessity. *7 Jac. ch. 4. Co. 2. Part. Inst. fo 732.*

5. And for the rest that are able to work, he is to see and take care that from time to time, as long as they remain there, they be set to work and labour; for during that time, they must in no sort be chargeable to the Country for any allowance, either at their coming in or going forth, or abode there, for they are to have such and so much allowances only as they shall de-

ſerve by their own labour and work; and if they will not work and perform their Task, he is to puniſh them as he ſees cauſe, with putting on Fetters or Gives upon them, and by moderate whipping of them. 7 *Jac. ch.* 4. *Co.* 2. *Part. Inſt. fo.* 731.

6. And laſtly, at every Quarter Seſſions the Maſter is to give an account of all ſuch perſons as have been committed to his cuſtody; And, if he offend in any of theſe particulars before rehearſed, or in any other Duty incident to his Office, the Juſtices of Peace may impoſe ſuch Fines and Penalties upon him for the ſame, as they ſhall think fit, and theſe Fines muſt be paid unto, and muſt be accounted for by the Treaſurer of the County Stock for the *King's Bench* and *Marſhalſey*, &c. 7 *Jac. ch.* 4. *Co.* 2. *Inſt. fo.* 734.

7. Now touching the Corporations and Work-houſes in *London* and *Weſtminſter*, and within the Burrough-Towns and places of the County of *Middleſex* and *Surrey* within the weekly Bills of Mortality, and their Officers; theſe things are to be obſerved following: Firſt it is ordained, that there ſhall be

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one or more Corporation or Corporations, Work-house or Work-houses within the Cities of *London* and *Westminster*, and the Burroughs and places within the Counties of *Middlesex* and *Surrey*, lying within the Weekly Bills of Mortality, consisting of a President, Deputy-President, and Treasurer; and the Lord Mayor to be President of the Corporation, Work-house or Work-houses within the City of *London*, and the Aldermen and 52 other Citizens to be chosen by the Common Council to be Assistants, which President and Assistants, or the major part of them, are to choose a Deputy President and Treasurer, and all other necessary Officers to execute the powers appointed by the Act, And a President, Deputy-President, Treasurer and Assistants are to be appointed by the Lord Chancellour, or Lord Keeper of the Great Seal, for the City of *Westminster* and the Liberties thereof, for the Corporation or Corporations, Work-House or Work-houses within the same; and for the said places within the Weekly Bills of Mortality in the Counties of *Middlesex* and *Surrey*, a President, Deputy and

Treasurers are to be chosen by the major part of the Justices of the said Counties at their quarter Sessions, of the most able Inhabitants and Freeholders of the said Counties of *Middlesex* and *Surrey*, for the Corporation or Corporations, Work or Workhouses of the said Counties 14 *Car.* 2. *ch.* 12.

8. And upon Vacancy, Death, or otherwise of any of the Presidents, Deputy-Presidents, Treasurers or Assistants in the City of *Westminster*, and places aforesaid, in *Middlesex* and *Surrey*, the major part of the Justices at their General Quarter Sessions have power to elect others in their rooms; and at every Quarter Sessions the said Justices are to take an account in writing of all their Receipts, Charges and Disbursments of the Officers and Treasurer of such Corporation or Corporations, Workhouse or Workhouses, how, and how many poor people have been imployed and set to work in the year last past, and what Stock there was and is remaining. 14 *Car.* 2. *ch.* 12.

9. The President, Deputy-President, Treasurers and Assistants aforesaid, shall

shall be bodies Politick and Corporate for ever, and shall have a perpetual Succession, and may sue, plead, and be impleaded by the Name of President and Governours of the Poor for the respective places aforesaid, in all Courts and Places of Judicature within the Kingdom of *England* and *Wales*, &c. and may without Licence in Mortmain, Purchase, or receive any Lands, &c. not exceeding the yearly value of 3000 *l. per annum*, of the Gift, Alienation or Devise of any person or persons; and every of the Corporations may keep Courts for the ends and purposes in the Act expressed, at such time and place as shall be appointed by the said President, his Deputy or the Treasurer; who are upon the desire of any four of the said Corporation, at any time to cause a Court to be warned accordingly, and may from time to time make common Seals for the use of the Respective Corporations. 14 *Car. 2. ch.* 12.

10. The Respective Presidents and Governours of the said Corporations, or any two of them, or any person authorised and appointed by them, or any

two of them, may from time to time apprehend, or cauſe to be apprehended any Rogues, Vagrants, Sturdy, Beggars, or idle or diſorderly perſons, within the ſaid Cities and Liberties, Places, Diviſions, and Precincts, and cauſe them to be kept and ſet to work in the ſeveral and reſpective Corporations or Work-houſes. 14 *Car.* 2. *chap.* 12.

III. If the Preſident and Governours of any of the ſaid Corporations ſhall certifie under their Seals, at any time their want of money for a Stock, and what Sum they think fit for the ſame, to the Common Council of the City of *London*, and the Burgeſſes and Juſtices of Peace in their Quarter Seſſions for *Weſtminſter*, or to the Juſtices of the reſpective Counties for *Middleſex* and *Surrey* in their Quarter Seſſions, then they are from time to time to ſet down and aſcertain ſuch competent ſums of money for the purpoſes aforeſaid, not exceeding one year's Rate uſually ſet upon any perſon, for and towards the Releif of the Poor, and the ſame to proportion out of the ſeveral Wards, Precincts, Counties, Diviſions, Hundreds, and Pariſhes, as they ſhall think fit,

fit, and according to the ſaid Proportions for the ſaid ſeveral Ward, precincts and Pariſhes to Tax and Rate the ſeveral Inhabitants, within the ſaid reſpective Wards, Precincts and Pariſhes, in which Tax if any ſhall find himſelf agrieved, he or they are to appeal to the Juſtices of the Peace at their next open Seſſions, where the buſineſs is to be finally ended. 14 *Car.* 2. *chap.* 12.

12. And any Alderman of *London*, or his Deputy, Burgeſſes and Juſtices of Peace of the Counties of *Middleſex* and *Surrey*, by Warrant under their Hands and Seals, may Authorize the Churchwardens, or Overſeers of the poor within the places and Pariſhes aforeſaid, to receive and demand of every perſon and perſons ſuch ſums of money as ſhall be aſſeſſed upon them by vertue of the Taxations and Conſtitutions aforeſaid, and for default of payment within ten days after demand or notice left at the dwelling houſe or lodging of every perſon aſſeſſed, then to Levy the ſame by Diſtreſs and Sale of his Goods, rendering him the overplus. 14 *Car.* 2. *chap.* 12.

13. The

13. The respective President and Governours, or seven of them may make and constitute Orders and By-laws for the better relieving; regulating, and setting the Poor to work, apprehending and punishing of Rogues, and Vagabonds, within the Cities, Liberties, and places aforesaid, provided the said By-laws be presented to the Justices of Peace at their Quarter Sessions, and confirmed by the order of the said Court; and the Presidents and Governours, or four of them of any of the said Corporations or Workhouses, may choose and entertain all such Officers as shall be needful to be employed in and about the Premisses, and remove them as they see cause, make such reasonable allowances unto them out of the Stock belonging to the Workhouse, as they shall think fit. 14 *Car.* 2. *chap.* 12.

14. This Act is not to prejudice any the Franchises, Rights, Liberties, or Priviledges heretofore granted by any Kings or Queens of this Realm, to the Dean and Chapter of the Collegiate Church of St. *Peters* in *Westminster*. 14 *Car.* 2. *ch.* 12.

FINIS.

A GUIDE FOR BAYLIFFS OF MANNOURS

1. THe Bayliff of a Mannour is an Officer choſen by the Lord of the Mannour, and this Officer by the ancient *Saxons* was called a *Reeve*, for the name of Bayliff was not known amongſt them; but came in with the *Normans* it ſeems. *Termes de Ley verb.* Bayliff.

2. This Officer is to Summon and call

call the Lords Courts, and to collect his Rents, Fines, Herriots, and Amerciaments, and other profits hapning within the Mannor as they grow due; and he may seize or distrain for them *ex Officio*, where seizure and distress is justifiable without any special command of the Lord, he may also pay Quit-Rents. *Termes de Ley ubi supra.*

3. It is said he may also order his Lord's Husbandry, distrain Beasts, damage Feasant, repair any Houses; hayes, or pales; and for that purpose cut down Timber or Trees; but it is not safe for him to build a new house; or set up an old House that is fallen, or to make any new Additions or Alterations, as to tile a house which before was thatched, or pale it where before it was hedged, or the like without a special command from his Lord so to do; for otherwise he will be a Trespasser to the Lord.

4. It is said also, that he may take any Cattel for his Lord to compast his ground as an Agistment, and cut down Underwoods that have been used to be cut, and he is to over-see and order the Labour of other Labourers and Servants

Servants under him about his Lord's work.

5. And laſtly, Theſe Officers are to give Account to their Lords of all their Receipts and Diſburſments, and pay in to him the money remaining in their hands, being required thereunto: and if they refuſe, the Lord may compel them thereunto by an Action of Account given to him for his Releif in ſuch caſe. *Bro. Bayliff.* 31. 8 *E.* 4. *fo.* 13.

FINIS.

A

GUIDE

FOR

GOVERNOURS

OF

FAIRS.

1. THe Owner, Governour, Ruler, Farmer, Steward, Bayliff, or Chief Keeper of every Fair and Market overt, are to appoint and limit out a certain and open place, within the Town, Place, Field or Circuit, where Horses, Mares, Geldings, and Colts must be sold; and they

they must appoint one sufficient person or more to take Toll, and keep the same place from ten of the clock before Noon until Sun-set of every day of the aforesaid Fair or Market, upon pain to lose for every default 40 shillings. 2, 3 *P. M. ch.* 7. *Co.* 2 *Part. Inst. fo.* 715.

2. And the Toll-gatherer, his Deputy or Deputies are to take their due and lawful Tolls for every Horse, Mare, *&c.* at the place and times aforesaid: And they are to have before them at the taking of the said Toll, the Parties to the Bargain, Exchange, Gift, Contract, or putting away of every such Horse, Mare, *&c.* and also the same Horse, Mare, *&c.* so sold, exchanged, or put away; and then the Toll-gatherer must write in his Book the Names, Sirnames, and dwelling places of all the said parties; and the colour with one special mark at the least of the said Horse, Mare, *&c.* on pain to forfeit for every default 40 shillings. 2, 3 *P. M. chap.* 7. *Co.* 2. *Part. Inst. fo.* 715.

3. And the said Toll-gatherer is within one day after the Fair, *&c.* to bring his

his Book to the Owner, Governour or Ruler, *&c.* of the Fair, or Market, who is then to cauſe a note to be made out of the ſame, of the true number of all the Horſes, Mares, *&c.* Sold at the ſaid Fair or Market, to which note he muſt ſet his hand or mark, on pain of 40 ſhillings: And if the Toll-gatherer neglects to bring the Book, as aforeſaid, he alſo forfeits 40 ſhillings. 2, 3 *P. M. ch.* 7. *Co.* 2. *Part. Inſt. fo.* 715.

4. Note, That where no Toll is due the Book-keeper's Fee for entring every Contract, is one peny and no more; 2, 3 *P. M. ch.* 7. *Co.* 2 *part. Inſt. fo.* 716.

5. Now ſince the making of this *Stat.* 2,3 *P. & M.* It is further provided by the 31 *Eliz.* That every Seller or Exchanger of any Horſe, or Mare, *&c.* in a Fair or Market, which is unknown to the Toll-taker, or Book-keeper, muſt procure one credible perſon that is well known to the Toll-taker, or Book-keeper, who is to vouch and teſtifie his knowledge of the Seller, and the Toll-taker or Book-keeper is to enter both the Names and

Sir-

Surnames, Myſteries and places of dwelling of the Seller and Voucher into his Book, with the colour, mark, and price of the Horſe, Mare, *&c.* ſo ſold or exchanged; and he is to give the Buyer, if he require it, a note in writing out of his Book, concerning the contract ſubſcribed with his hand, for which he is to have two pence. 31 *Eliz. ch.* 12. *Co.* 2. *Part. Inſt. fo.* 717, *&* 718.

6. Every Toll-taker or Book-keeper that ſuffers a ſale to paſs without a Voucher, unleſs he know the party of his own knowledge, as aforeſaid, and every perſon making falſe Teſtimony or Avouchment in the behalf aforeſaid, and every Seller unknown to the Toll-taker, not bringing a Voucher, and cauſing the ſame to be entred, as aforeſaid, forfeits five pounds, one moyety thereof to the King, and the other to the Proſecutor; and alſo the ſale of ſuch Horſe, Mare, *&c.* to be void. 31 *El. ch.* 12. *Co.* 2. *Part. Inſt. fo.* 718.

7. And note, That though an Horſe, Mare, *&c.* be at the ſale uſed in all the points aforeſaid, with Voucher, *&c.* yet the right owner, his Executors or Adminiſtrators, may redeem a ſtoln Horſe,

Horſe, if they claim him within ſix months after the ſtealing, at the Pariſh or Corporation where they ſhall find him, and make proof within 40 days after by two ſufficient Witneſſes, before the next Juſtice of Peace of the County, or before the Head Officer in a Corporation, that the Horſe was theirs, and repay to the Buyer ſuch price for the Horſe, as the ſame Buyer ſhall upon his own Oath before ſuch Juſtices or Officer teſtifie he paid for him. 31 *El. ch.* 12. *Wingate's Stat. Tit. Fairs and Markets. Co.* 2. *Part. Inſt. fo.* 718.

8. And if a ſtoln Horſe be not ſold in Fair or Market, according to the Rules aforſaid, then ſuch Sale does not alter the property of the right Owner, but he may Seize or Replevy him whereſoever he finds him. 31 *El. ch.* 12 *Wingate's ubi ſupra. Co.* 2. *Part Inſt. fo.* 718.

By the *Stat.* 22. *Car.* 2. *cap.* 8. There ſhall be no Buſhel but the *Wincheſter* Buſhel, containing eight Gallons, and none ſhall ſell by other meaſure.

If the Clerk of the Market, of the Kings houſe, or others authorized to mark

mark or ſeal Meaſures, being required, ſhall neglect or refuſe to ſeal or mark any Buſhel, Half Buſhel, or Peck duly gauged, he forfeits 5 *l.* for the firſt offence, and for every other offence 10 *l.* or if the King's Clerk of the Market, or of his Houſe take more than his Fees; or if any other take above One peny for the Half Buſhel or Peck, or more than one Farthing for any leſſer Meaſure, he incurs the Penalties in the Statute 17 *Car.* 1.

That at the charge of ſuch perſons who have the Toll, or profit of the Market where no Toll is taken, there ſhall be before 29. *Sept.* 1670. one Meaſure of Braſs provided and chained in the Market place, upon pain to forfeit 5*l.*

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